



# REFRAMING THE ROLE OF MANAGING BROKERS IN BC

SUMMARY OF FEEDBACK ON  
DISCUSSION PAPER

JULY 2020

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## INTRODUCTION

This report provides a summary of the feedback received from licensees and industry stakeholders in response to the discussion paper, *Reframing the Role of Managing Brokers in BC*, which was released in fall 2019. The discussion paper proposed measures and concepts to ensure that the regulatory framework continues to provide appropriate regulatory protections for consumers and fosters a strong culture of professionalism among real estate licensees.

The discussion paper presented five foundational measures that the regulators could undertake in the short to medium term to strengthen the role of managing brokers as it currently exists:

1. Require brokerages to develop & submit formal compliance plans
2. Raise qualification standards for managing brokers
3. Provide more targeted continuing education for managing brokers
4. Develop brokerage best practices & related resources for managing brokers
5. Fill regulatory data and information gaps

The paper also set out three high-level concepts for the future role of the managing broker:

1. Status quo role within an enhanced regulatory framework
2. Compliance officer
3. Single licensing (no managing broker)

The intention in presenting the three alternative concepts was to challenge the assumptions about the managing broker's role and functions and to contemplate how changes to the role could help resolve the tensions that managing brokers, and by extension the industry, are currently experiencing, while ensuring adequate consumer protection.

The discussion paper is the third engagement activity in a broader project led by the Office of the Superintendent of Real Estate (OSRE), in collaboration with the Real Estate Council of British Columbia (RECBC) and the Policy and Legislation Division of the Ministry of Finance (Ministry). The project aims to review the role of managing brokers within British Columbia's real estate regulatory framework, considering various challenges influencing the real estate industry, including changing business practices and increasing expectations of the public and the regulator.

Further information on this project, including summaries of past engagement activities can be found at [gov.bc.ca/osre](http://gov.bc.ca/osre).

As this document is a summary of feedback, it should not be taken as an indication of a preferred direction or decision on the part of RECBC, OSRE or the Ministry. If any proposed new rules are developed as a result of further analysis, licensees will be consulted and asked to share their ideas and feedback.

## Who We Heard From

While the discussion paper was available publicly, requests for feedback were sent to all real estate licensees. Industry organizations were also invited to send feedback on behalf of their organization and membership.

We received 97 submissions with feedback from a range of respondents, including 14 industry associations or other groups representing over 20,000 licensees. Of note, the BC Real Estate Association and the 11 local real estate boards ran a parallel consultation process and provided a joint submission. In addition, several local real estate boards made supplemental submissions of their own.

The open-ended nature of the discussion paper questions allowed respondents to express a preference for one or more measures or concepts, and to provide feedback in varying levels of detail.<sup>1</sup> While the scope of the project centered on the role and responsibilities of managing brokers under the regulatory framework established under the *Real Estate Services Act*, respondent feedback touched on related matters, some of which were beyond the scope of this project. Some of these related matters are being considered separately. The most frequent topics that were out of scope have been summarized in this document.

**Thank you** to all those that contributed valuable feedback in response to the discussion paper. We are grateful that respondents spent time sharing their ideas and passion for the industry with us.

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<sup>1</sup> Given the number of responses, and the nature of the discussion questions, statistics are not a reliable measure and have not been presented in this summary.

## SUMMARY OF FEEDBACK

The aim of the consultation was to gain industry insights on the proposed measures and concepts and their potential impacts on licensees, the broader industry and consumers. Similar to previous engagement activities on this work, there was little consensus among respondents.

This document provides a summary of notable trends in the feedback received. The summary of feedback has been broken down into four parts:

1. General trends and the areas with the greatest amount of consensus,
2. Highlights of feedback on the five foundational measures proposed,
3. Highlights of feedback on the three future concepts proposed, and
4. Frequently made comments that were beyond the scope of the project.

### General Trends and Areas of Greatest Consensus

Feedback was almost universally consistent in wanting more resources and guidance developed by the regulator. Respondents expressed that brokerage owners and licensees of all levels want a clear understanding of the standards required by the regulatory framework.

Respondents also supported raising education and qualification standards for managing brokers. However, they cautioned that raising standards could also make it even harder to attract licensees to take on the managing broker role.

While less universal, the preferred concept for the future role of the managing broker was to maintain the role as it currently exists while making enhancements to the regulatory framework. Respondents expressed eagerness to participate in future consultation on those enhancements.

Many respondents recommended that a necessary consideration of implementing each measure and concept is the resources (e.g. costs and time) that would be required by both licensees and regulators.

There was a trend among several licensees that the measures and the concepts in the paper represent change, which leads to hesitation and uncertainty. Several respondents expressed strong support for the consumer protection aims of regulation.

## REFRAMING THE ROLE OF MANAGING BROKERS IN BC

The five discussion paper questions were:

1. What information and considerations should we be aware of as we further develop the five measures to strengthen the role of managing brokers in the short and medium term?
2. As we examine each of the concepts for the future role of managing brokers, what considerations should we be aware of?
3. What are your thoughts on the impacts, benefits and challenges of each of the concepts?
4. Do you have a preferred concept for the managing broker role, and if so, why?
5. Do you have any other comments or feedback on the discussion paper?

## HIGHLIGHTS OF FEEDBACK ON FOUNDATIONAL MEASURES

The discussion paper presented five foundational measures that the regulators could undertake in the short to medium term to strengthen the role of managing brokers as it currently exists.

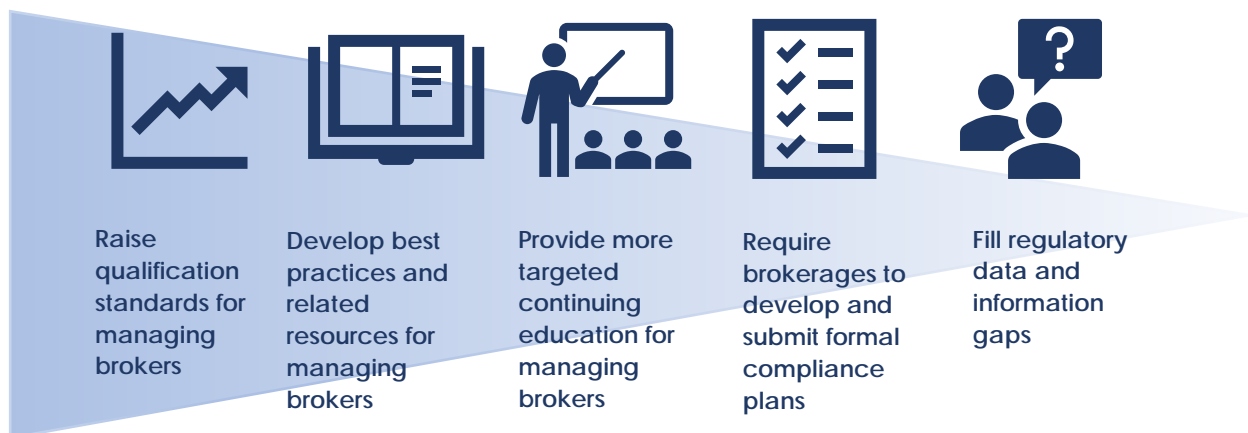
These measures are considered as foundational building blocks as they can be done regardless of which, if any, of the concepts for the role of the managing broker move forward in the long term.

Overall, respondents were supportive of all five of the foundational measures. The level of support varied between the measures. The order of respondent preference was as follows:

### REFRAMING THE ROLE OF MANAGING BROKERS IN BC DISCUSSION PAPER

The discussion paper question for feedback on measures:

- What information and considerations should we be aware of as we further develop the five measures to strengthen the role of managing brokers in the short and medium term?



The most common measures that respondents provided feedback on were qualification standards, best practices and resources, and continuing education.

### Raise Qualification Standards for Managing Brokers

Many respondents expressed enthusiasm for raising the qualification standards of managing brokers. While respondents frequently recognize the difficulty of attracting new managing brokers and expressed caution about creating additional barriers to managing broker licensing (particularly for strata management services), respondents generally believe that the two-year minimum experience requirement is insufficient.



Many respondents elaborated that the education for managing brokers could be improved through revisions to the Broker’s Business Planning and Financial Management Licensing Course, including:

- better consideration of rental property management and strata management licensees;
- level of focus on business operations, accounting methods, management, supervisory skills and compliance with the regulatory framework<sup>2</sup>; and
- increased applied learning opportunities.

### Develop Brokerage Best Practices and Related Resources for Managing Brokers

Many respondents were supportive of developing best practice guidance and other resources for managing brokers; these were often seen as a tool that would assist all licensees in effectively applying professional judgement to varied circumstances and specific to the tasks of each licensing category.



A few respondents recommended revising the existing Professional Standards Manual (PSM) and Brokerages Standards Manual (BSM) available through RECBC’s website.<sup>3</sup>

### Provide More Targeted Continuing Education for Managing Brokers

Many respondents were in favour of changes to continuing education for managing brokers generally. A handful of respondents recommended that instead of creating “more” education for managing brokers, courses required by the regulator could be improved by having a greater emphasis on practical application.



A few respondents recommended that continuing education not just be targeted to managing brokers, but also to managing brokers of specific licence categories (i.e. trading services, rental property management services and strata management services).

### Require Brokerages to Develop and Submit Formal Compliance Plans

A few respondents noted that a compliance plan requirement would be particularly beneficial for new brokerages. Other respondents noted that a phased-implementation approach could:

- require new brokerages to submit a plan in order to be licensed



<sup>2</sup> In 2012, following extensive industry consultation and input, RECBC launched a revised Broker’s Licensing Course with a refined focus on business planning, financial management, human resources management and leadership. It is unclear whether respondents who expressed this view were referring to content of the current course or the former course.

<sup>3</sup> RECBC is working collaboratively with OSRE to develop guidance that would replace the PSM and BSM over time. While some content will be applicable to all licence categories and levels, the new practice guidelines search results can be filtered by licence categories (i.e. trading, rental property management, strata management) as well as by managing broker perspective.

- request existing brokerages to volunteer to submit a plan
- require compliance plans to be developed by brokerages exhibiting poor performance through audits or discipline

If this measure is developed, respondents generally suggested:

- a phased, multi-year implementation to ease the development burden on brokerages, particularly on small brokerages
- that the detail (and expense) of a compliance plan should be commensurate to the size and scope of the brokerage (with larger brokerages having more detailed plans); an assessment of the compliance plans, if any, cannot apply a “one-size-fits-all” approach as brokerages across the province have very different operations
- education, resources and guidance be developed by the regulator to assist brokerages to develop such plans as most brokerages lack sufficient expertise
- regular brokerage audits related to the compliance plan should be focused on education
- organized real estate should provide templates for compliance plans [other respondents expressed concern about the potential of brokerages purchasing a ready-made compliance plan without engaging in the intended deliberations and careful consideration that is part of the requirements aim and that this could be overcome through interviews]
- the regulator’s requirements, guidance and reviews of compliance plans for strata management brokerages should consider the unique operations and activities of such brokerages
- increased brokerage liability may be acceptable if the brokerage not adhering to its compliance plan contributed to a related licensee committing professional misconduct

Respondents also noted that many issues of poor performance by representatives (e.g. incomplete records and poor understanding of legislated requirements) could be improved through brokerages implementing appropriate procedures and systems to hold related licensees accountable and encourage them to exceed the minimum requirements of legislation. More respondents expressed support for brokerages having policies and procedures than for the requirement to submit compliance plans.

More respondents preferred a regulator-imposed maximum number of representatives and associate brokers under one managing broker, than requiring brokerages to explain how they would ensure adequate supervision of all its individual licensees and unlicensed staff through a compliance plan.

### Fill regulatory data and information gaps

This measure received the fewest comments. Generally, those respondents that commented on this measure recognized the importance of data in the consideration, development, implementation and monitoring of regulation. A few respondents noted the importance of data in separating fact from anecdotal reports, particularly when considering significant changes to the regulatory structure.



Several respondents expressed an interest in seeing more data on a range of topics, such as comparing RECBC complaints by transaction volume or portfolio size, comparing RECBC complaints by brokerage ownership structure, and seeing brokerage audit results.



Respondents recommended the following as considerations as this measure is developed:

- minimize disruption to brokerages and the administrative burden on managing brokers
- avoid duplication of effort
- consider what information is applicable to regulating each licensing category separately

## HIGHLIGHTS OF FEEDBACK ON FUTURE CONCEPTS

Managing brokers perform many functions and roles. Within the regulatory regime, they are required to function as supervisor, mentor, educator, trainer, records and book-keeper, and administrator. This jack-of-all-trades vision of the managing broker’s role may have originated from a time when managing brokers generally had a more personal stake in the profitability of their related brokerage.

Looking to the future of real estate regulation, there may be opportunities to articulate a new concept of the managing broker and re-align the regulatory framework, including where liability is assigned. The three concepts for the future of the role of managing brokers that were presented are:



Status quo role within an enhanced regulatory framework



Compliance officer



Single licensing (no managing broker)

- *Status quo role within in enhanced regulatory framework*: The essential role of the managing broker would not change. However, in addition to the foundational measures discussed above, additional regulations (as described in the [discussion paper](#)) could be developed to help resolve or address some of the tensions currently experienced by managing brokers.
- *Compliance officer*: While managing brokers currently have a compliance function within the brokerage, this concept would strictly focus on compliance-related duties. A compliance officer’s function is to ensure that a company’s operations and activities fully comply with all relevant regulatory requirements. Regulatory requirements may be sector-specific (e.g. RESA) or broad (e.g. human rights, anti-money laundering, anti-spam, privacy) and include applying professional standards, accepted business practices and internal brokerage standards and policies. Accordingly, the compliance officer’s key duties and responsibilities would include developing and implementing an effective compliance program.
- *Single licensing (no managing broker)*: In this concept, a single licensing framework would be contemplated where all individuals licensed to provide real estate services would be licensed at the same level. This concept represents a significant departure from the current regulatory

framework in that it eliminates the supervisory role currently performed by managing brokers, as well as the vicarious liability placed on them. Individuals who are licensed to provide real estate services would take on responsibility for the administrative functions which brokerages and managing brokers are currently obliged to perform under the regulatory framework.

The multiple hats currently worn by managing brokers can, at times, create tensions for the managing broker between the brokerage's business model and practices and compliance with the regulatory framework. Each concept shifts how liability for misconduct is apportioned in order to reconcile the issues and tensions experienced by managing brokers under the

current regulatory framework. Of the three categories of real estate services under the Act, brokerages providing trading services would likely experience the greatest impact of a move to any of these concepts.

The three concepts represent longer-term potential changes to the regulatory framework. If any changes were to be implemented based on these concepts, it would likely require a multi-year transition. If and when regulatory changes contemplated in this paper are developed further, there will be additional engagement opportunities.

### **General Note about the Feedback on the Concepts**

Many respondents opted to provide feedback on one or two aspects of the discussion paper and did not provide feedback on some or all the concepts. As a result, the summary below is based on the comments that we received about each concept. Frequently, respondents gave contradictory reasons for supporting or not supporting a concept (e.g. some respondents supported a specific concept because they felt that it might improve professionalism among all licensees, while others disliked it because they felt that it might decrease professionalism).

### **Feedback on the Concept of Status Quo Within an Enhanced Regulatory Framework**

#### *Feedback on impacts, benefits and challenges*

More respondents preferred the status quo within an enhanced regulatory framework than either of the other concepts presented in the discussion paper.

Respondents expressed mixed feelings about the possibility of imposing greater liability on brokerages than managing brokers.

## **REFRAMING THE ROLE OF MANAGING BROKERS IN BC**

The discussion paper questions for feedback on concepts:

- What are your thoughts on the impacts, benefits and challenges of each of the concepts?
- Do you have a preferred concept for the managing broker role, and if so, why?
- As we examine each of the concepts for the future role of managing brokers, what considerations should we be aware of?



Some of the reasons that respondents preferred the concept of status quo within an enhanced regulatory framework were:

- Representatives (and associate brokers) need the mentorship, guidance and leadership provided by a managing broker
- It is simpler to build on the current model than to replace it with an unfamiliar alternative concept
- Change leads to uncertainty
- Tweaks to the current concept are a proportionate response to the scope of the issues
- The current concept of the managing broker role would be improved with tighter regulatory controls
- The other concepts do not benefit consumers of strata management services

Feedback expressed the following concerns about this concept:

- Added regulation might add pressure to the bottom line of brokerages
- Managing brokers often have an incentive not to report misconduct to the regulator
- Does not address the shortage of competent managing brokers
- Does little to reduce managing broker responsibility

Table 1 (see page 11) provides a summary of suggestions made by respondents to enhance the existing managing broker role.

#### *Feedback on considerations in further developing this concept*

A few respondents noted that increased regulation should consider the additional time and workload that would be required by licensees and unlicensed brokerage staff. It was also observed that increased regulation would also require education on the changes and potential restructuring of some existing business models.

Several licensees expressed that great care, consideration and consultation is required in relation to the potential to restrict brokerages, managing brokers and other licensees from using indemnification agreements with each other. Many respondents felt that brokerage owners should carry more financial responsibility for the misconduct of its related licensees. It was noted that this could encourage ownership to ensure good policies and supervision are in place. We also heard that removing the ability of brokerages to be indemnified by representatives, may disrupt brokerages using “fee-for-service brokerage” or “100% commission offices” business models, yet could encourage ownership to ensure good policies and supervision are in place (see page 11 of the [discussion paper](#) for an explanation of these business models).

While there is a lot of concern about the level of managing broker responsibility, a few respondents felt that this should not be completely shifted away from managing brokers to representatives and brokerage owners. These respondents cited that managing brokers need to be accountable for the good management of the brokerage and that the potential for liability under the current framework provides an incentive for managing brokers to adequately supervise the activities of the brokerage.

**Table 1: Respondent Suggestions to Enhance the Regulatory Framework**

- Regulators should impose a maximum number of representatives and associate brokers under one managing broker. Suggestions for the maximum number ranged from 60 to 200 related licensees. (We also received submissions from respondents including some industry associations who expressed the opposite position; that is, that managing brokers should not be restricted to a set number of licensees under their supervision. Fewer submissions expressed this position.)
- Respondents provided conflicting feedback regarding whether managing brokers should be able to provide trading services directly to clients. Respondents who supported allowing managing brokers to continue to provide trading services to clients often cited that managing brokers in small brokerages and smaller communities often provide trading services to clients in order to earn a livable income.
- Respondents expressed the belief that it is not possible for a managing broker to adequately supervise related licensees remotely and felt that it should be mandatory for managing brokers to be physically present at the brokerage.
- Regulators should require associate brokers to re-qualify several years after completing the Broker’s Business Planning and Financial Management Course (“Broker’s Licensing Course”) if they have not upgraded their license to become a managing broker and consider a waiver to this requirement depending on educational background and recent experience.
- Regulators should mandate a minimum percentage of remuneration to be retained by the brokerage to fund compliance systems, training, supervision and management functions. At the same time, other respondents stated that brokerage remuneration should be determined by the marketplace and healthy competition.
- Respondents suggested more detailed regulatory requirements for brokerages, such as requiring all trading services brokerages to provide a minimum level of support and training to all its licensees or requiring all brokerages to have minimum policy and procedure requirements.
- Respondents were supportive of a more rigorous assessment of the suitability of brokerage owners.

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**OSRE Comments**

*The concepts proposed in the paper were purposely presented in a state of early development. This decision was made in order to engage industry stakeholders early in the process of contemplating what concept(s) to explore further. Responses to the discussion paper questions on the concepts was helpful to identify impacts, benefits and challenges not previously considered as well as validate some early analysis. This feedback will also be helpful in determining next steps, if any, in relation to the three concepts.*

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*While preserving the managing broker's existing role and responsibilities within an enhanced regulatory framework emerged as respondents' preferred concept, some of the reasons cited for supporting this concept suggest that many real estate professionals are uneasy with or resistant to change. This may explain why many respondents were more comfortable commenting on how the existing regulatory framework could be modified.*

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## Feedback on the Concept of Compliance Officer

### *Feedback on impacts, benefits and challenges*

The concept of a Compliance Officer received mixed reactions from respondents, including many neutral comments.



Respondents provided the following comments in support of this concept:

- It would broaden the pool of qualified persons to hold the role, potentially helping to reduce some of the challenges to recruit new managing brokers
- One Compliance Officer would have the ability to supervise multiple offices, not owned by the same principals, reducing costs for some brokerages. This change could be particularly beneficial to small brokerages and those in rural communities, which may not be able to support a full-time, dedicated managing broker
- Liability is reduced for the person fulfilling the compliance officer role (formerly managing broker) and increased for the brokerage (and its owners)

Respondents expressed the following concerns about the Compliance Officer concept:

- New and existing representatives could lose valuable mentorship presently being provided by managing brokers
- If the Compliance Officer of a brokerage was not a current or former licensee, they would lack credibility in the eyes of individual licensees
- Requires significant restructuring of the regulatory framework and business models
- There does not appear to be any benefit to rental property management or strata management brokerages

### *Feedback on considerations in further developing this concept*

A few respondents noted that they required greater detail before they could identify likely impacts and benefits, and whether they would prefer this concept. Some licensees suggested that a hybrid of this concept could have several benefits. Feedback indicated that this concept may be more attractive if an individual licensed as a Compliance Officer could also hold a licence to provide real estate services.

Feedback also indicated that for this concept to be successful, licensees would need to be able to obtain timely advice and mentorship from somewhere and the Compliance Officer cannot be viewed as an enforcement arm of the regulator.

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#### **OSRE Comments**

*Under this concept, brokerages would have the option of having the compliance officer function be performed by an experienced licensee as part of their duties within the brokerage or retaining the services of another professional as a compliance officer on a full or part-time basis.*

*It is expected that this would be a benefit to small brokerages, which would not need to retain the compliance officer's services on a full-time, exclusive basis. Rather, a compliance officer would be able to serve multiple, unrelated brokerages on a fee-for-service basis, freeing up the former managing broker for other activities (e.g. business development, mentoring, client services, portfolio management).*

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#### **Feedback on the Concept of Single Licensing (No Managing Broker)**

##### *Feedback on impacts, benefits and challenges*

The concept of single licensing received the most comments of any of the three concepts. Several respondents reacted negatively to the concept of single licensing and suggested that education and qualification requirements would need to increase significantly to support implementation of this regulatory concept; this was also acknowledged in the discussion paper itself.



Respondents provided alternate suggestions to the single licensing concept including imposing a maximum number of licensees under one managing broker, making individual licensees more accountable for their own actions within the existing regulatory framework and rebalancing managing broker vicarious liability.

Respondents provided the following comments in support of this concept:

- Individual licensees would carry more responsibility for their own actions, solving current liability concerns of managing brokers and raising the bar of professionalism
- Licensing and entry requirements would be raised, resulting in better educated licensees entering the industry, which would benefit consumers
- All functions of the brokerage could be performed by individual licensees and the notaries or lawyers involved in a transaction
- Removing the requirement for a managing broker would eliminate the potential conflict of interest between the managing broker's supervisory and oversight role and their ability to provide trading services to clients in trades involving related licensees
- Individual licensees could retain more remuneration

- Existing business model norms would be disrupted, allowing the industry to evolve to better meet the needs of consumers and licensees.

Respondents expressed the following concerns about this concept:

- It could result in an erosion of consumer protection, particularly during the transitional period, and more legal claims as mistakes presently caught by managing brokers would go undetected
- Representatives currently have insufficient education and it would be difficult to implement education programs for existing representatives to upgrade to a single-licensing concept
- Too much responsibility would be placed on individual licensees; individual licensees are too busy to be responsible for all the administrative tasks required under this concept
- This concept could only work for trading services, where the emphasis is on the individual licensee, rather than the brokerage. The administrative functions performed by rental property management and strata management brokerages are fundamental to the services provided to consumers
- Consumer confidence could be diminished by such a large change to the regulatory structure
- Many licensees would outsource administrative tasks and pass those costs onto consumers.

#### *Feedback on considerations in further developing this concept*

It was suggested that consultation with other industries (e.g. financial institutions holding brokerage trust accounts and licensee insurer) and non-licensee owners would be required if this concept moved forward. It was also suggested that lessons could be learned from other jurisdictions that have similar regulatory models for real estate.

A few respondents noted that an initial step could be to enhance pre-licensing education. Respondents suggested that such a step would be necessary to implement this concept, and the regulator could monitor how enhancing pre-licensing education impacts the issues and challenges facing managing brokers, and by extension, the industry at large.

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#### **OSRE Comments**

*The single licensing concept represents a significant shift from the current regulatory framework. OSRE fully understands that implementing this concept would require significant changes to the regulatory framework, including licensing education, handling trust monies and RECBC audits, in order to meet its consumer protection goals and would require a lengthy transition period for industry. If this concept is developed further, additional consideration will also be given to how it may impact each of the three licence categories (rental, strata and trading).*

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## ADDITIONAL FEEDBACK OUTSIDE OF THE PROJECT SCOPE

Many respondents provided interesting comments and valuable feedback that was outside of the scope of this project but that may be helpful to other current or future work. Some of the feedback may be better directed at other organizations or entities.

The table below provides a summary of out of scope feedback:

Areas of feedback beyond the scope of the project	OSRE Response, Related Information and Relevant Referrals
<p>Suggestions for improvements to <b>new</b> licensee education, including that new licensees ought to be “practice ready”</p>	<p><i>Most regulated professions have licensing education that focuses on developing critical thinking, fundamental knowledge and where to find answers, leaving it to the industry to provide practical, job-specific training and adequate mentorship. When deciding whether to engage new licensees, brokerages may wish to consider whether they are prepared to provide the appropriate level of area specific practical training to complete the learning provided by the licensing course and exam, including the Applied Practice Course for trading services licensees. Similarly, new licensees may also wish to consider what level of training and mentorship the brokerage is willing to provide. Professionals are expected to undertake continuous learning in their area of practice, regardless of how experienced they may be.</i></p> <p><i>RECBC is working on a comprehensive review of licensing education and testing requirements. In addition, in 2018, the Rules were amended to reflect a significantly increased English Language Proficiency requirement for new applicants, including some applicants transferring their licence from another jurisdiction.</i></p>
<p>The majority of managing brokers are nearing retirement and it is difficult to attract representatives and associate brokers to upgrade their licences and become managing brokers</p>	<p><i>OSRE, RECBC and the Ministry are aware of the demographics of current managing brokers and many of the commonly-reported reasons why licensees do not want to take on the role, including low remuneration and vicarious liability under an enhanced penalty regime. The measures and concepts proposed in the discussion paper could help to respond to some of these concerns, such as by providing more resources and guidance to support managing brokers. Alternately, the longer-term concepts of compliance officer and single licensing, presented in the discussion paper, could help reduce the demand for managing brokers and broaden the pool of qualified individuals that can perform compliance and/or administrative functions on behalf of individual licensees.</i></p> <p><i>While regulators share many of these concerns, we encourage industry to consider developing strategies to attract new managing brokers (e.g. strengthening recruitment and considering ways to improve remuneration).</i></p>



Areas of feedback beyond the scope of the project	OSRE Response, Related Information and Relevant Referrals
Request for a separate licensing category to distinguish commercial real estate	<p><i>OSRE, RECBC and the Ministry are aware of the desire by many licensees working in the field to establish a separate licensing category for commercial real estate. The current regulatory model provides equal protections for all consumers regardless of the property type. The Real Estate Services Act and the Rules do not distinguish between residential and commercial real estate transactions. As fiduciaries, licensees are expected to conduct themselves to a high standard regardless of the property type or sophistication of the consumer.</i></p>
Suggestions to regulate licensee compensation models (e.g. drop commission-based remuneration in favour of fee-for-service like other regulated professions)	<p><i>Currently, when offering services to clients, brokerages can determine what remuneration model they use (e.g. commission, fee for service, flat rate, etc.) and to explain to consumers the benefits of that model and of the brokerage's services. It is also open to brokerages and individual licensees to determine how remuneration is shared within the brokerage.</i></p> <p><i>Generally, regulators prefer to regulate the outcome (e.g. informed and protected consumers) rather than stipulating how licensees achieve those outcomes. Regulating licensee remuneration would be a significant intervention into the business affairs of individual licensees and brokerages and raises a number of legal issues which require further study. Regulators encourage industry members and associations to consider how they can resolve these challenges on their own and diversify business models.</i></p>
Concerns about trading services licensees encouraging consumers to be unrepresented in transactions	<p><i>OSRE and RECBC are exploring ways to collect, analyze and use data to help regulate the provision of real estate services in the public interest. This includes the continued monitoring of licensee conduct to ensure that consumers are treated in an honest, fair and transparent manner.</i></p> <p><i>Alternately, regulators could consider whether specific regulation is required to prevent licensees from encouraging consumers to remain unrepresented in order for a licensee to maximize their own remuneration.</i></p> <p><i>OSRE, RECBC and the Ministry take allegations of professional misconduct seriously. Information related to potential misconduct on the part of a licensee should be reported directly to RECBC. Information on how to file a complaint can be found on RECBC's website at <a href="http://www.recbc.ca">www.recbc.ca</a>, including information on the anonymous tip line.</i></p>
Requests for increased regulation of teams	<p><i>OSRE and RECBC are currently exploring areas for possible increased regulation of teams as a separate project and expect to consult with licensees in due course.</i></p>

Areas of feedback beyond the scope of the project	OSRE Response, Related Information and Relevant Referrals
<p>Requests for a prohibition on licensees working “part-time” or a return on the restriction preventing licensees having another occupation</p>	<p><i>There has never been a regulatory requirement in BC that licensees must work “full-time.” Although a restriction previously existed that prevented licensees from holding another occupation, it was removed to be compliant with the various inter-provincial labour mobility agreements and the laws of Canada generally (e.g. human rights legislation and the Charter of Rights and Freedoms).</i></p> <p><i>The concern of respondents about “part-time” licensees is generally that they may lack competence to provide real estate services. As professionals, all licensees are expected to recognize and work within the limits of their skill and expertise. Doing otherwise could result in significant harm to consumers and professional discipline for licensees who demonstrate incompetence or conduct themselves in ways that are not in the best interest of their clients.</i></p> <p><i>OSRE, RECBC and the Ministry take allegations of professional misconduct seriously. Information related to potential misconduct on the part of a licensee should be reported directly to RECBC. Information on how to file a complaint can be found on RECBC’s website at <a href="http://www.recbc.ca">www.recbc.ca</a>, including information on the anonymous tip line.</i></p>
<p>FINTRAC obligations (and any penalties for related non-compliance) should be on the associate brokers and representatives who interact with clients and not managing brokers. Being responsible for FINTRAC requirements adds to the existing workload of overburdened managing brokers.</p>	<p><i>While RECBC has launched a mandatory anti-money laundering course for licensees of all levels and categories, FINTRAC obligations are established federally under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA). More information about the obligations of real estate licensees under the PCMLTFA can be found on the <a href="#">FINTRAC website</a>.</i></p> <p><i>Licensees may wish to share any feedback about the enforcement of the PCMLTFA directly with FINTRAC.</i></p>
<p>Comments about industry organizations and industry-based requirements (e.g. the form and content of Professional Development Program courses).</p>	<p><i>Industry associations exist to serve the interests of their members and are not part of the regulatory framework. For example, the 18-hour PDP requirement is established by BCREA and its member boards and is separate from the required continuing education under the regulatory framework. Members of these organizations are encouraged to provide their feedback directly to the association(s) or organization(s) in question.</i></p>
<p>Recommendations that licensees have a greater role in the regulatory governance when OSRE and RECBC amalgamate with the British</p>	<p><i>Decisions about governance are outside of OSRE and RECBC’s jurisdiction. The governance of the regulator is determined by the Real Estate Services Act, which falls under the responsibility of the Ministry of Finance.</i></p>

Areas of feedback beyond the scope of the project	OSRE Response, Related Information and Relevant Referrals
Columbia Financial Services Authority (BCFSA)	<p><i>Licensees are encouraged to apply for governance positions at the regulator as and when postings are made.</i></p> <p><i>RECBC currently offers several opportunities for licensees to participate in various committees and advisory groups to provide valuable feedback.</i></p>

## FINAL THOUGHTS AND WHAT'S NEXT

The broad range and often conflicting opinions shared in the feedback by respondents reaffirm our understanding that licensees across the province provide real estate services differently and experience the impacts and benefits of regulation differently. The aim of the consultation was not to obtain unanimity or unqualified support for a particular direction but rather to gain diverse industry perspectives on what should be considered by OSRE, RECBC and the Ministry in moving forward.

The suggestions for improvement received from respondents fall under the jurisdiction of several different entities, including some outside of the working group. OSRE will consider whether and how to share anonymized and aggregate feedback with the appropriate entities.

With the benefit of the feedback received through this consultation, additional analysis will be undertaken with respect to the five foundational measures. Feedback on the three concepts for the future of the managing broker role will help inform the analysis of which concept(s) for the future of the managing broker role should move forward.

Licensees will continue to be consulted and asked to share their ideas and feedback. We look forward to continuing to engage with all licensees and other stakeholder on these and other important matters that impact the industry. In the meantime, OSRE will continue to review and consider all suggestions within its jurisdictions that are shared by licensees, consumers and other stakeholders. Such suggestions can be shared via email to [osrepolicy@gov.bc.ca](mailto:osrepolicy@gov.bc.ca).

Thank you again to the passionate individuals and organizations who took the time to participate in our engagement activities on the role of managing brokers over the last year. We have learned a great deal and will continue to use that knowledge to strengthen the regulation of real estate services in BC. We look forward to continuing this journey with you.