

# REFRAMING THE ROLE OF MANAGING BROKERS IN BC

DISCUSSION PAPER  
OCTOBER 2019

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Office of the  
Superintendent  
of Real Estate

## **Acknowledgements**

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## INTRODUCTION AND BACKGROUND

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**) is reviewing the role of managing brokers within British Columbia's (**BC**) real estate regulatory framework in light of changing business practices that are impacting the real estate industry and the role of managing brokers. The project was initiated to identify areas and sources of challenges for managing brokers and related risks to the industry and consumers. The project has also sought to explore options for the future of the managing broker role to ensure that the role continues to support appropriate regulatory protections for consumers and fosters a strengthened culture of professionalism among real estate licensees. Further information on this project, including summaries of past engagement activities, can be found at [gov.bc.ca/osre](http://gov.bc.ca/osre).

Managing brokers occupy a crucial role within the real estate regulatory framework. Every real estate brokerage in BC is required to have a managing broker. RESA and the Rules set out the responsibilities of managing brokers to control and direct the operations of the brokerage. Managing brokers often wear many hats within a brokerage, such as supervisor, mentor, educator, trainer, records and book-keeper, and administrator. Managing brokers have expansive duties and are responsible for ensuring that the business of the brokerage and its licensees is carried out competently and in accordance with the regulatory framework. As a result, managing brokers play an important role in the broader functioning of the regulatory framework and the protection of real estate consumers. The responsibilities of a brokerage to comply with other, non-RESA legislative frameworks and requirements also typically fall to the managing broker. The Appendix provides some additional background information on the role of managing brokers within the regulatory framework.

### WHAT IS THE REAL ESTATE REGULATORY FRAMEWORK?

We use the term “regulatory framework” to refer to the collection of documents that govern the provision of real estate services in BC. The primary documents that make up BC’s real estate regulatory framework are the *Real Estate Services Act* (RESA or Act), *Real Estate Services Regulation* (Regulations), and the *Real Estate Rules* (Rules).

RESA is legislation passed by the Legislative Assembly that governs the provision of real estate services in BC. In conjunction with the Regulations, it establishes requirements for operating real estate brokerages and for becoming a real estate professional in BC (including a real estate agent, property manager and strata manager). The Act sets out the respective responsibilities of both of BC’s real estate regulators, OSRE and RECBC. OSRE and RECBC administer the Act on behalf of the provincial government to protect consumers of real estate services.

The Superintendent of Real Estate has the power to make Rules. The Rules set the standards of practice expected of real estate professionals in BC. The Rules contain most of the requirements for a real estate professional’s business activities. The Act and the Rules together set out the requirements to become a real estate professional (an individual licensee) in the province.

RECBC has bylaws that specify some of its processes (e.g. licence application) and how it conducts and operates its business. It also makes available practice advice for licensees to help clarify the expectations of licensee conduct and business activities.

In the last 15 years, business model and practice changes, increasing expectations of the public and the regulator, advances in technology and other market pressures and disruptors have challenged the ability of managing brokers to fulfill their duties under the regulatory framework. There have been reports from members of the industry as well as from those charged with reviewing industry practices<sup>1</sup> that managing brokers cannot effectively wear all the hats imposed on them.

In response to concerns about the role of managing brokers and the functioning of the real estate regulatory framework, OSRE, RECBC and Ministry staff established a working group in summer 2018 to identify issues and challenges facing managing brokers and industry more broadly. To better understand these issues and challenges a series of engagement activities were conducted in the fall and winter of 2018, including a survey of licensees and the public followed by a series of regional roundtables with managing brokers held across the province.

We have carefully analyzed the feedback from these engagement activities and assessed the risk of harm to consumers from the issues and challenges identified. The issues and challenges facing managing brokers and the industry can generally fit into one of three key areas, each of which are discussed in greater detail in the next section:



**Education and  
Qualification  
Requirements**



**Licensee and  
Brokerage  
Supervision**



**Liability and  
Regulatory  
Compliance**

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<sup>1</sup> For example, see the [2016 Independent Advisory Group Report on Real Estate Regulation in BC](#).

In response to these issues and challenges, this discussion paper presents five foundational measures that regulators can undertake in the short to medium term to strengthen the role of managing brokers as it currently exists. These measures can provide a strong regulatory foundation for any future changes to the role of managing brokers. These foundational measures would:



**Require brokerages to develop and submit formal compliance plans**



**Raise qualification standards for managing brokers**



**Provide more targeted re-licensing education for managing brokers**



**Develop brokerage best practices and related resources for managing brokers**



**Fill regulatory data and information gaps**

Many of these measures are already being contemplated, with the exception of formal compliance plans. These measures can help address the tensions experienced by managing brokers in relation to the key issues and challenges they are facing.

In addition to these foundational measures, the discussion paper presents three high-level concepts for the future role of the managing broker:



**Status quo role within an enhanced regulatory framework**



**Compliance officer**



**Single licensing (no managing broker)**

It also sets out new regulatory approaches as options for potential changes to the legislation, regulation, rules, policies and practices affecting the real estate industry. Our intention in presenting these concepts is to challenge assumptions about the managing broker's roles 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 concepts and the related changes to the regulatory framework that are described in this discussion paper are not finalized and do not reflect any imminent changes to the structure of the regulatory framework. Your feedback will help inform the direction that OSRE, RECBC and the Ministry take, and will help ensure that any revisions to the role of managing brokers and related regulations continue to protect BC's real estate consumers. Our goal is to make improvements to BC's regulatory framework for real estate services to ensure that the framework

- Provides adequate protection for consumers in light of ongoing changes within the industry
- Enhances public confidence in the regulation of real estate services
- Appropriately aligns responsibility and liability within the real estate industry.

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### CALL FOR FEEDBACK

There are four questions posed in this discussion paper regarding the measures and concepts proposed below. As you review the discussion paper, we ask that you consider the following questions:

- What information and considerations should we be aware of as we further develop the five foundational measures (see pages 17 to 22)?
- As we examine each of the concepts for the future role of managing brokers (see pages 23 to 28), what considerations should we be aware of?
- 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?

## IDENTIFIED ISSUES AND CHALLENGES

The issues and challenges facing managing brokers and the industry can generally fit into one of three key areas:



**Education and  
Qualification  
Requirements**



**Licensee and  
Brokerage  
Supervision**

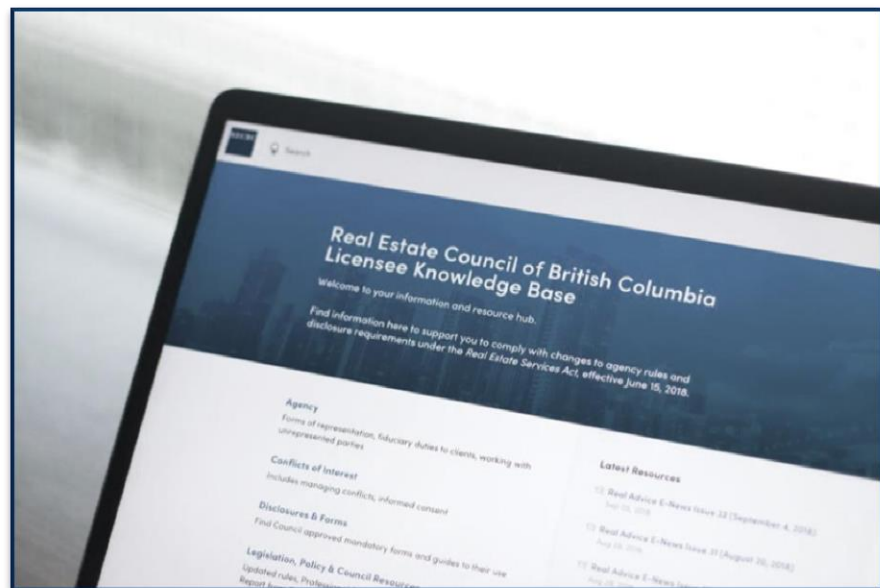


**Liability and  
Regulatory  
Compliance**

### A. EDUCATION AND QUALIFICATION REQUIREMENTS

The first issue relates to the education and qualification requirements for managing brokers. All real estate licensees must meet the requirements related to good reputation; age, education and experience; and prior professional licensing, discipline and criminal record considerations. All licensees must also meet an English language proficiency requirement at the time of initial licensing. To be licensed as a managing broker, individuals are required to have been licensed under RESA to provide real estate services for at least two of the last five years and to have successfully completed the Broker's Business Planning and Financial Management Licensing Course (**Broker's Licensing Course**) and Examination. In limited circumstances, individuals with specified education and qualifications may be eligible to apply for an exemption to these requirements.

To enable labour mobility within Canada and internationally, RECBC recognizes equivalent experience from other jurisdictions. Generally, most Canadian jurisdictions require similar levels of



education and qualifications from individuals working in a role equivalent to that of a managing broker.

In order to remain licensed, managing brokers must complete RECBC's Re-Licensing Education Program (**REP**) requirements. Currently, all managing brokers must complete at least one Legal Update Course and any additional



mandatory courses required by RECBC (e.g. the current “Rules Changes: Agency and Disclosure” course) within the two-year re-licensing period.

Through licensee engagement activities and other research and analysis, respondents expressed concerns that the education and qualification requirements for licensing as a managing broker may not adequately equip graduates with the knowledge, abilities and competencies required to fulfill the unique duties of the position. For example, managing brokers report that they draw heavily on their



experience as a representative when providing guidance and advice to their brokerages' related licensees and that the current two-year minimum experience requirement is insufficient to build the necessary level of expertise.

Setting managing broker licensing requirements ensures graduates achieve the minimum level of knowledge and experience required to effectively perform a managing broker's duties and functions. Qualification requirements need to be set at a level that balances an adequate minimum level of education and experience

while not creating a barrier to the licensing of new managing brokers and the continued functioning of the regulatory framework. While comprehensive statistics are not currently available on what level of education managing brokers have attained outside the regulatory framework (e.g. whether they have a high school diploma, college certificate or bachelor degree), reported information suggests that many managing brokers exceed the minimum education and experience requirements.

Inexperienced managing brokers may have difficulty in properly guiding their

brokerages' related licensees on best practices that comply with the real estate regulatory framework while simultaneously enabling licensees to assist their clients in achieving their objectives. Challenges in licensees obtaining timely and accurate advice may influence general perceptions amongst licensees about the value of managing brokers in guiding licensee practice, thereby weakening a central

premise of the regulatory framework regarding managing brokers' duties and responsibilities for overseeing the daily activities and operations of the brokerage and its related licensees. Managing brokers who fail to effectively discharge these duties may place consumers at significant risk of harm as well as undermine public confidence in the real estate regulatory framework.

The concerns noted above relate to a number of areas, including the education and experience pre-requisites for managing brokers and the content of the Broker's

Licensing Course, including specific skills and competencies (e.g. leadership, business planning, financial and human resources management) as well as applied practice opportunities within that course. These are areas of particular relevance to managing brokers, given their unique role in brokerage operations.

A key responsibility of the managing broker is to ensure that adequate brokerage policies and procedures are in place to fulfill the obligations that may stem from a broad and complex set of regulatory requirements; this includes the real estate regulatory framework and a range of other federal and provincial legislation (e.g. residential tenancies, anti-money laundering compliance, anti-spam, protection of clients' personal information and privacy). In order to do so, managing brokers are expected to stay current on an ever-changing regulatory landscape. We recognize that this type of shifting regulatory environment presents a challenge for managing brokers (and other licensees) with respect to remaining current on regulatory developments and how they apply to real estate licensees. However, failure to do so risks undermining the skills and competence

of the brokerage's licensees and public confidence in the real estate industry more generally.

The requirements of the REP are intended to assist licensees in keeping abreast of developments in the broader regulatory framework, in particular recent discipline cases, legislative changes, and other topical issues. Current re-licensing education offerings generally frame content from the perspective of representatives who actively provide real estate services to consumers. However, REP courses generally do not frame content from the managing broker's perspective and do not explore the implications of educational content from a brokerage operations perspective. This lack of tailored re-licensing education content leaves managing brokers largely to their own devices in adapting brokerage policies and procedures to account for new regulatory developments. In light of the managing broker's central role in brokerage operations and oversight of the business activities and conduct of its related licensees, there is a public interest role for regulators in providing education that supports managing brokers to effectively perform their duties on an on-going basis.

## B. LICENSEE AND BROKERAGE SUPERVISION

The second set of issues that we identified through this project relate to licensee and brokerage supervision. Under BC's regulatory framework, the managing broker's overriding duty is to oversee the activities of individual licensees and unlicensed staff at the brokerage to ensure that real estate services provided on behalf of the brokerage comply with the legislative requirements of the regulatory framework. Managing brokers are required to provide adequate, direct and active supervision of brokerage staff. There are many factors that can impact the quality of supervision provided by managing brokers, including the type of business model and practices employed at the brokerage, and the capacity, experience and skills of a brokerage's licensees. This section primarily focuses on the risks of ineffective supervision associated with a brokerage's business model.

Business models have been influenced by advancements in technology (e.g. rise of the widespread use of the internet), changes to interprovincial trade agreements and the 2005 changes to the regulatory framework (e.g. allowing individual licensees to be independent contractors instead of only employees). Of the three categories of real estate services under the Act, brokerages providing trading services appear to have experienced the greatest impact and have undergone the greatest shift towards new and

emerging business models. An example of adapting business models can be seen with the rise of so-called "100% commission offices" and, more recently, the emergence of new tech-powered real estate brokerages, several with roots outside of Canada.

Through our engagement activities to date, we heard a lot about how certain business models may negatively impact effective supervision and create associated risks for consumers. The supervision requirements established by the regulatory framework can be met regardless of the business model used by a brokerage. However, some

### WHAT DO WE MEAN BY BUSINESS MODELS?

Business models involve things such as how brokerages remunerate individual licensees and other contractual arrangements, the number of licensees or volume of transactions, and whether managing brokers share a physical space with the licensed and unlicensed staff under their supervision. Some examples of real estate business models regarding licensee remuneration include:

**Salary:** a consistent, pre-determined amount of wages are paid to licensees by the brokerage at pre-determined intervals (used more frequently at brokerages providing rental property management and strata management services)

**Traditional Brokerage:** remuneration from providing real estate services is split between the licensee and the brokerage (e.g. 40% of commission to brokerage, 60% to individual licensee); often the managing broker or brokerage owner helps individual licensees generate business

**Fee-for-Service Brokerage or "100% Commission Offices":** the brokerage pays the individual licensee all remuneration earned from providing real estate services and the individual pays the brokerage for its services on a fee-for-service basis; the fee may include a regular "desk" fee as well as a nominal fee per real estate transaction; to be profitable, such brokerages generally require a higher volume of licensees

brokerages have moved to business models that provide less value and support to licensees, usually in exchange for higher licensee remuneration. Aside from the prospect of disciplinary action, some brokerage models, such as “fee-for-service” or “100% commission offices”, provide little incentive to brokerages to invest in activities that promote regulatory compliance among its licensees. Licensees report that there has been a “race to the bottom” among some brokerages in urban centres that are competing to charge as low a basic fee as possible to attract as many individual licensees as possible. These business models may contribute to individual licensees not valuing or properly understanding the important role managing brokers play in ensuring regulatory compliance and consumer protection.

Many licensees suggested that it would be difficult or impossible for a managing broker to adequately supervise a large number of licensees, often seen in “fee-for-service” or “100% commission offices” whose profitability is based on low margins on a high volume of transactions. On its face, it is more challenging to supervise a large number of highly autonomous licensees and a large volume of transactions and there is an inherent increased risk to consumers as the volume of transactions and number of licensees under the supervision of a single managing broker increases. In the 2018/19 fiscal year, several RECBC discipline

decisions dealt with failures of managing brokers to adequately supervise the real estate services being provided on behalf of the brokerage. Most of these discipline decisions involved managing brokers at brokerages with more than 100 licensees.

By contrast, as indicated on the next page, RECBC complaints data shows that individual licensees at brokerages with 1-10 licensees had the highest likelihood of complaints, followed by individuals at brokerages with 11-50 licensees. Individuals at brokerages with more than 200 licensees were among the least likely to have complaints made against them. Perhaps not surprisingly, brokerages with more than 200 licensees often have more than one managing broker.

We received reports from some licensees that they were unable or unwilling to seek advice from a managing broker before a client was committed to a real estate transaction. Licensees often reported that they are unable to obtain advice because their managing broker was unavailable or too busy with other duties. Licensees also often expressed concern that the managing broker was representing their own clients in transactions, which could lead to conflicts of interest and create a perception of competition. No matter the cause, licensees who do not have the benefit of obtaining advice from managing brokers may be more likely to make errors that place consumers at risk of harm.

#### **CHANGE AS THREAT OR OPPORTUNITY?**

Some licensees have expressed concern over emerging business models and structures as well as how some brokerages are choosing to be remunerated by consumers (e.g. flat fee for service versus commission). Innovation and new business models and structures can foster competition and options for consumers. The role of the regulator is not to prevent such innovation, but rather to ensure that licensees are not putting consumers at greater risk of harm as a result of these changes to business models and structures.

## FACT AND FICTION: COMPLAINTS OF LICENSEE NON-COMPLIANCE

There are several avenues available to consumers and licensees to resolve real estate-related disputes and concerns, including formal RECBC discipline processes, RECBC compliance coaching of issues raised in audits, informal mediation processes and civil litigation. Not all compliance issues are reported to or detected by RECBC for a range of reasons. As a result, while complaints information may help provide a sense of compliance issues and volume, it should not be considered as a definitive means to accurately quantify the full scope of regulatory non-compliance.

Information provided by RECBC regarding licensee misconduct indicates that on a per capita basis, the incidence of complaints against licensees is low (see table below). The incidence of complaints was highest among those working in offices of 10 or fewer licensees (4.7 complaints per 100 licensees) and lowest among those working in offices with a large number of licensees. These findings are generally consistent with data from prior years.

**Real Estate Licensee Complaints by Brokerage Size 2018/2019**

Brokerage Size (# of licensees)	Brokerages, Branches and Sole Proprietorships		Total Individual Licensees		Complaints		Complaints Per 100 Licensees
	#	%	#	(%)	#	%	
1-10	1024	71	3437	13	162	21	4.7
11-50	280	19	6413	25	202	26	3.1
51-100	81	6	5791	22	145	19	2.5
101-200	52	4	7211	28	188	24	2.6
>200	11	1	2001	12	85	11	2.8
<b>Total</b>	<b>1448</b>	<b>101</b>	<b>24853</b>	<b>100</b>	<b>782</b>	<b>101</b>	<b>3.1</b>

Many licensees outside of the Lower Mainland have expressed the view that non-compliance with the regulatory framework is “a Vancouver problem.” However, RECBC data indicates that the number of complaints by geographic area generally corresponds to the proportionality of licensees in that area.

Non-compliance is also not a “new licensee problem”. In 2019, licensees with 6-15 years of experience accounted for over 50% of the complaints received by RECBC and, considering complaints per 100 licensees, these licensees are more than twice as likely to receive a complaint compared to licensees with 0-5 years of experience. This may indicate improvements in licensing education or be explained by the greater likelihood that such licensees are active, full-time participants in the industry who deal with a significantly higher number of consumers. Another alternative explanation is that it could be an indication that this cohort includes licensees who may be less familiar with the current regulatory regime which was established under RESA in 2005.

Some managing brokers believe they can provide adequate supervision and oversight of licensees without having any direct, face-to-face interaction with related licensees and staff, as is typically provided at a traditional, brick-and-mortar brokerage. Instead, these managing brokers opt for remote or virtual style supervision which attempts to leverage communication technology to stay in regular contact with related licensees, opting to hold virtual training sessions and brokerage meetings. Some individual licensees have raised concerns with managing brokers who supervise from a different location than their related licensees, citing concerns that such arrangements may place consumers at greater risk of harm.

In general, the potential harm to consumers from ineffective supervision can range from

limited to severe depending on the circumstances and whether managing brokers primarily engage with representatives, associate brokers and unlicensed staff through reactive means. Potential risks to consumers resulting from ineffective supervision include serious misconduct, such as misappropriated or unaccounted for client funds, false and misleading representations, failure to avoid conflicts of interest, individual licensees providing real estate services outside of the scope of their licence and individual licensees providing advice outside the scope of their expertise. While there may not always be a direct causal link between business models and these consumer risks, it is clear that business models often have an impact on the ability of a managing broker to provide effective supervision.

### THE RISE OF TEAMS

The rise of teams has resulted in managing brokers reporting both advantages and disadvantages related to effective supervision. A team is a group of licensees who routinely work together and collectively owe agency duties to clients. (Agency duties include such things as the duty of loyalty and to act in the best interests of the client, the duty to avoid conflicts of interest, and the duty to keep a client's information confidential.) Teams can also include unlicensed assistants. Many of the concerns we heard about teams are not unique to teams. For example, concerns involve a lack of consumer and licensee understanding of agency relationships and a lack of proper disclosure of representation at the outset of a relationship. Several of these concerns may be addressed, in part, by the foundational measures described in this discussion paper as well as RECBC's current Education Review.

We received many suggestions from licensees to increase the regulation of teams. While informative, this feedback was largely not specific to the role of managing brokers and will primarily be considered as part of a separate project focused on teams.

## C. LIABILITY AND REGULATORY COMPLIANCE

One of the key duties of managing brokers prescribed by the current regulatory framework is to ensure that the brokerage's licensed and unlicensed staff comply with regulatory requirements, professional standards, accepted business practices and internal brokerage standards and policies. This means that managing brokers are not only liable for their own conduct but also vicariously liable for the actions of brokerage staff.

Increased discipline penalty amounts have contributed to heightened concern among managing brokers regarding their vicarious liability for the actions of the brokerage's licensees. While the intent of the amended penalty regime was to strengthen both the general and specific deterrence from misconduct objectives of disciplinary sanctions, the magnitude of the increase may have unintentionally heightened concerns about vicarious liability among current and prospective managing brokers. This could be contributing to challenges with succession planning in brokerages and whether there will be a skilled candidate to take over a managing broker's role upon retirement. In turn, a perceived shortage of managing brokers could exacerbate concerns about scope of supervision, described earlier in this paper.

Since the new penalty regime was implemented, RECBC has increasingly taken a principle-based approach to the provision of practice advice. This is more consistent with the practice advice and guidance provided by other professional regulators; however, it diverges somewhat from the detailed practice advice historically provided to licensees. The provision of principle-based practice advice is

### REPORTING MISCONDUCT TO REGULATORS

There appears to be under-reporting of compliance issues by licensees, including managing brokers, despite being best positioned to identify non-compliance due to their involvement in providing real estate services on a day-to-day basis. For example, in 2018-19, over 70% of complaints received by RECBC originated from consumers and anonymous tips while licensee complaints accounted for less than 10%. RECBC-initiated complaints accounted for about 15% of remaining complaints. Feedback received from licensees suggests that many are hesitant to make complaints about other licensees for a range of reasons, including damage to future working relationships, concerns about personal liability and a sense that regulators do not sufficiently penalize misconduct.

Similarly, data provided by Financial Transactions Reporting and Analysis Centre (**FINTRAC**) for the period 2014–2017, indicates that 98% of suspicious transaction reports related to real estate come from regulated financial institutions, rather than licensed real estate service providers.

Reliance on RECBC-initiated processes to identify non-compliance is insufficient. While RECBC's audit and compliance processes are well-developed, proactive reporting by licensees to RECBC and other regulators is required to uphold the professional conduct requirements of the regulatory framework.

consistent with the characteristics of a profession, in which professionals are frequently required to use discretion and judgement to make fact driven judgments in cases where there may be a lack of definitive information or guidance.

A result of all these recent changes is that managing brokers may at times experience uncertainty about how to comply with regulatory requirements. If managing brokers are not able to resolve this uncertainty adequately, it can have significant implications for overall brokerage compliance as well as for individual consumers. While the harm that may result from this type of situation can vary in severity, failure by managing brokers to effectively discharge their duties nonetheless undermines the consumer protection objective of real estate regulation and may weaken public confidence in the industry.

Changing business practices among real estate licensees (e.g. brokerage engagement of licensees as independent contractors, remuneration practices that favour individual licensees over brokerages, etc.) have contributed to a perceived

decline in the influence and importance of the managing broker and a growing perception that real estate licensees are independent actors.

Managing brokers may also experience tension between their duties under the regulatory framework and the profit-based motivations of brokerage owners. Regulators acknowledge that brokerages are businesses and that revenue-generation and profitability are important considerations for business operations. However, the consumer protection objective of the real estate regulatory framework by its nature limits high-risk activities that may be profitable to brokerages but place consumer interests at disproportionate risk. Managing brokers often face difficult choices that attempt to reconcile the maximum profitability and productivity desired by the brokerage's owners and related licensees with the regulatory compliance and oversight required by the regulatory framework. As a result, managing brokers are placed in a position where they have limited functional authority but have significant vicarious liability within the regulatory framework.

### **MISCONDUCT BY MANAGING BROKERS**

In 2018/19, RECBC issued 78 discipline orders of which 21 involved managing brokers. Thirteen negotiated consent orders involved a breach of section 3-1 [Managing broker duties] of the Rules and 11 orders involved a breach of section 6(2) [Brokerage must have a managing broker] of the Act. There is no clear pattern regarding other contraventions, with eight orders involving contraventions of licensees' ethical duties (i.e. sections 3-3 [Duties to clients] and/or 3-4 [Duty to act honestly and with reasonable care and skill] of the Rules), four orders involving various provisions under Part 3 of the Act [Trust Accounts and Other Financial Matters] and three orders involving section 7(3) [Relationships between brokerages and other licensees] of the Act.



## STRENGTHENING THE ROLE OF MANAGING BROKERS: ACTIONS IN THE SHORT AND MEDIUM TERM

Based on the issues and challenges identified above, it is clear that changes are required to ensure that the role of the managing broker continues to support a well-functioning real estate industry as well as the regulatory framework's consumer protection mandate. The measures described below are foundational building blocks to modernize and strengthen the role as it currently exists. These measures could also support changes to the role moving forward:



**Require brokerages to develop and submit formal compliance plans**



**Raise qualification standards for managing brokers**



**Provide more targeted re-licensing education for managing brokers**



**Develop brokerage best practices and related resources for managing brokers**



**Fill regulatory data and information gaps**

### CALL FOR FEEDBACK

Feedback from licensees, industry stakeholders and other members of the public on these measures will help inform implementation considerations moving forward. In particular, we are seeking feedback on the following question as you read through this section of the paper:

- What information and considerations should we be aware of as we further develop these five measures?

As these foundational measures are developed further, there will be additional engagement opportunities. This paper intentionally does not include detailed information related to the implementation of these five measures. We acknowledge that a range of changes to the regulatory framework as well as regulatory policies and processes would be required to support successful implementation.

## REQUIRE BROKERAGES TO DEVELOP AND SUBMIT FORMAL COMPLIANCE PLANS

RESA requires that an applicant for a new licence or a licence renewal must satisfy the regulators that they meet the qualification requirements under the Act and established by the Rules. This measure would see the creation of a new regulatory requirement for brokerages to submit a satisfactory brokerage compliance plan to RECBC. This requirement would place the onus on brokerages to explain their intended business model to regulators and to submit a rationale for how their particular model would provide adequate supervision and controls of the brokerage's real estate activities, thereby promoting regulatory compliance. Through a compliance plan, brokerages would demonstrate to regulators that they have adequate controls, processes, systems and management structures in place to provide effective supervision of licensed and unlicensed staff, and explain how the brokerage structure fosters an atmosphere of compliance. The content and details provided by each brokerage could vary depending on their business model and controls intended to be employed by the brokerage.

Brokerage owners would likely need to put deliberate thought into their business models, systems and practices as well as expansion plans, particularly in terms of continued regulatory compliance. Examples of considerations that brokerage owners would be required to consider in the development of a compliance plan include:

- the intended management structure of the brokerage, including any proposed delegation of managing broker duties and responsibilities;
- the ownership structure of the brokerage;
- the anticipated number of managing brokers, and other individual licensees, as well as the number of conveyancing, administrative, and other unlicensed staff, and any plans for growth or expansion that may impact supervision and staffing;
- category or categories of real estate services to be provided;
- whether one or more managing broker is also providing services directly to clients and how potential conflicts of interest will be mitigated and, in a brokerage practicing designated agency, how compliance with section 3-3.2(5)(c) of the Rules will be achieved (ensuring the interests of all clients are treated in an even handed, objective and impartial manner);
- any potential consumer risks of the intended business model that the brokerage has identified, and how the brokerage plans to mitigate those risks;
- any consumer protection strengths of the model;
- the brokerage's emergency succession plan (e.g. what happens if a managing broker is suddenly incapacitated) and business continuity planning (e.g. the brokerage's computer network is disrupted or a fire destroys paper records); and
- descriptions of brokerage systems, processes, and policies to ensure adequate supervision and compliance with relevant regulatory frameworks (e.g. privacy and document controls, confidentiality barriers) as well as any brokerage enforcement mechanisms to encourage behaviour consistent with the regulatory framework (e.g. contractual terms between brokerages and individual licensees requiring all documents and records for a transaction before the individual receives remuneration).

In creating this requirement, regulators would take a more proactive role in the scrutiny and regulation of compliance plans and activities. Brokerage audits could be expanded to help monitor how various elements of the brokerage compliance plan have been implemented and are functioning.

Updates to the brokerage compliance plan could be required when there was a significant change to the brokerage's business model or structure (e.g. operations, ownership structure or licence parameters) or on a regular, multi-year schedule to be determined. Models for similar requirements already exist in other sectors, including the triennial assessment plans required of Pension Plans under the *Pension Benefit Standards Act* or the business plan requirements of the Motor Vehicle Sales Authority of British Columbia.

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## ISSUES ADDRESSED

This new requirement would have the potential to impact issues related to Education and Qualification Requirements, Licensee and Brokerage Supervision, and Liability and Regulatory Compliance. In particular, this option addresses several of the issues related to Licensee and Brokerage Supervision, including consideration of the potential supervisory challenges created by having a large volume of licensees and/or transactions under a managing broker's supervision. This option allows brokerage owners to consider and identify the consumer risks that a business model creates and how to mitigate them without requiring the regulator to interfere directly with industry business models. The information provided to substantiate brokerage compliance plans would benefit the regulators and government to obtain additional data to help monitor risks and better target regulatory interventions to risks. If pursued, this option would have ramifications on the other available options to target issues related to Liability and Regulatory Compliance. For example, a brokerage compliance plan may reduce the appeal of introducing brokerage owner registration with the regulator as the plan will provide the regulators with information about the ownership and management structure and other details to satisfy the regulators that any risks by the intended model and operation have been mitigated by the brokerage.

The Independent Advisory Group on Real Estate Regulation in BC's (**IAG**) 2016 report recommended that regulators implement a maximum number of licensees under one managing broker<sup>2</sup>. This was also a frequent suggestion from licensees during engagement activities, particularly from licensees outside of the Lower Mainland. In considering this option, we carefully reviewed several years of complaints data from RECBC (including the data in the table on page 13). Based on our review, the suggestion of imposing a maximum number of licensees under one managing broker does not in and of itself adequately address existing risks and there does not appear to be any demonstrative consumer protection benefit to such a stand-alone restriction. However, requiring brokerage compliance plans would not limit the ability of the regulator to impose conditions or restrictions on a specific brokerage licence to limit the number of individual licensees in appropriate circumstances.

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<sup>2</sup> 2006 IAG Report, p.48; available at [www.recbc.ca/wp-content/uploads/IAGReport\\_June2016.pdf](http://www.recbc.ca/wp-content/uploads/IAGReport_June2016.pdf)

## RAISE QUALIFICATION STANDARDS FOR MANAGING BROKERS

This measure would strengthen the qualification standards (i.e. education and experience) required to become licensed as a managing broker through one or more of the following:

- raising the minimum level of licensing experience (e.g. from 2 of the last 5 years to 3 of the last 5 years);
- reviewing the content of the Broker's Licensing Course to ensure its relevancy; and
- increasing applied practice opportunities within the Broker's Licensing Course.

We acknowledge that the minimum level of education for all licensees is an issue that requires additional consideration. Any work on this issue will be undertaken as part of a separate initiative, building on the outcomes of RECBC's current Education Review.

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### ISSUES ADDRESSED

This approach can help address gaps in the skills and knowledge of new managing brokers, as well as ensure licensing education for managing brokers builds the critical thinking skills and professional judgement required to deal with complex situations where multiple regulatory principles may be at play.

## PROVIDE MORE TARGETED RE-LICENSING EDUCATION FOR MANAGING BROKERS

This measure would see more targeted re-licensing education with content that is framed in terms of a managing broker's unique duties and responsibilities within the regulatory framework. It could include distinct re-licensing courses for managing brokers (e.g. Legal Update, other mandatory courses) or more limited add-on modules with content specifically designed for managing brokers.

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### ISSUES ADDRESSED

This approach can help build capacity among managing brokers in understanding regulatory requirements from a compliance perspective and interpreting those requirements into policies and procedures that adequately account for the particular circumstances of their brokerage (e.g. business model, size, region, categories of real estate services provided) on an on-going basis. Compared to a more prescriptive or top-down approach, this type of bottom-up approach is expected to result in greater capacity among managing brokers to effectively perform their compliance duties.

## DEVELOP BEST PRACTICES AND RELATED RESOURCES FOR MANAGING BROKERS

This measure would see the development and publishing by the regulators of best practice guidance for brokerages on a number of topics, including best practices for the following:

- supervision generally, including how to effectively supervise licensees at different stages of their career
- considerations for brokerage contracts with individual licensees, for example:
  - how the foundation of the brokerage-employee/contractor relationship can support compliance with the regulatory framework; and
  - how practices for brokerage/licensee remuneration sharing may impact compliance with regulatory requirements;
- how to effectively delegate the supervision of a managing broker's real estate transactions;
- clarifying expectations regarding the level of due diligence and oversight expected of managing brokers; and
- clarifying "reasonable steps" with respect to a managing broker's obligation to report misconduct.

In addition to best practices, there are a number of areas where additional tools and resources would also be developed to support managing brokers in performing their unique duties (e.g. templates, checklists, etc.). Similarly, this option contemplates new managing brokers being able to request an "educational audit" within the first 12-18 months of licensing in which RECBC auditors would identify areas for strengthening brokerage practice and provide best practices coaching.

## ISSUES ADDRESSED

This approach has the potential to impact issues related to Education and Qualification Requirements, Licensee and Broker Supervision, and Liability and Regulatory Compliance. This option can help brokerages better address multiple issues created by business models that have the potential to impact effective supervision (e.g. brokerage remuneration to individual licensees, conflicts of interest created by a managing broker providing trading services directly to clients).

## FILL REGULATORY DATA AND INFORMATION GAPS

This project has made it clear that there is room to improve the regulators' current data collection and data analysis capabilities. This measure would identify ways for the regulator to gather additional data and information that could identify potential risk factors to be monitored or addressed and to better substantiate anecdotal reports from industry on changes to business practices that may be putting consumers at risk. This could include both collecting and analysing information in some or all of the following areas:

- educational attainment of managing brokers (and other licensees);
- licensing experience (i.e. number of years licensed) for representatives applying for an associate or managing broker licence;
- greater details from brokerages about licensees that are departing or joining the brokerage as part of a brokerage's annual report;
- greater information about the nature and volume of transactions conducted by brokerages and their related business models and practices (e.g. remuneration model, supervisory approach, ratio of managing brokers to the brokerage's other related licensees); and
- enhanced data collection and analysis capabilities to better identify emerging anti-money laundering risk factors and share information with other regulators and law enforcement.

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## ISSUES ADDRESSED

The collection and analysis of the above information would help to build a larger foundation of data that would strengthen the ability of the regulator to be proactive, and better monitor the impacts of changes and emerging trends in the industry. This measure would also involve regulators pursuing regular aggregate data disclosure through information-sharing agreements (e.g. with industry associations and other regulators) who gather comprehensive information on real estate market activity and licensee compliance with broader regulatory requirements.

Gathering additional data and information can assist in the implementation of selected foundational measures and options identified in this discussion paper as well as help to identify additional measures for later implementation, primarily targeted to the issues outlined in Education and Qualification Requirements and Licensee and Brokerage Supervision. Pursuing this option would provide a fuller picture to regulators of business practices that may impact the likelihood, nature and severity of consumer harm.

## THE ROLE OF THE MANAGING BROKER: CONCEPTS FOR THE FUTURE

Managing brokers wear many hats. 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.

Today, many managing brokers are employed by a brokerage which is wholly or partially owned by someone else who may or may not be licensed. This can create tension between a managing broker's functional authority and their statutory duties.

The foundational measures described beginning on page 17 of this paper can help to modernize and strengthen the managing broker's role as it currently exists. In the short to medium term, these foundational measures could help to alleviate some of the challenges and issues and help to enhance regulatory compliance, thereby improving consumer protection.

However, 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 following sections explore three different concepts for the future of the managing broker role, which are described as:



**Status quo role within an enhanced regulatory framework**



**Compliance officer**



**Single licensing (no managing broker)**

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.

## CALL FOR FEEDBACK

Feedback from licensees, industry stakeholders and other members of the public on the concepts for managing brokers and potential options is important and will help inform any changes moving forward. In particular, we are seeking feedback on the following questions:

- As we examine each of the concepts for the future role of managing brokers, what considerations should we be aware of?
- 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?

If and when regulatory changes contemplated in this paper are developed further, there will be additional engagement opportunities.

## STATUS QUO ROLE WITHIN AN ENHANCED REGULATORY FRAMEWORK

Under this option, the essential role of the managing broker would not change. However, in addition to the foundational measures discussed above, a number of further measures could be taken to help resolve or address some of the tensions currently experienced by managing brokers.

Under the status quo, the managing broker would continue to have broad responsibility for the brokerage's daily operations and the supervision and conduct of its licensees. The managing broker would be accountable for ensuring that appropriate policies, processes and controls are in place to ensure that the brokerage and its related licensees operate in compliance with the Act, the Regulations, the Rules and RECBC's bylaws and policies.

The managing broker would remain a licensee and would continue to be required to meet the education and qualification requirements, including re-licensing education, set by the regulator. As is currently the case, managing brokers would continue to be experienced licensees in more consumer-service oriented roles. Further, managing brokers would generally continue to be able to provide real estate services to clients.

Generally, limited changes would be required to the regulatory framework to strengthen the managing broker's role in the future; some changes may be necessary to provide more detailed regulatory requirements to help mitigate some of the risks to consumers stemming from business models. Increased regulation would likely include all of the following:

- restricting contractual indemnification agreements to prevent managing brokers and individual licensees from paying brokerage penalties and preventing individual licensees from paying managing broker penalties (does not include a restriction on managing brokers from seeking indemnification agreements from a brokerage);
- requiring managing broker approval of team formation and membership changes; and



- requiring associate brokers to requalify several years after completing the Licensing Course if they have not upgraded their licence to become a managing broker.

Increased regulation could also include some or all of the following:

- mandating or restricting brokerage fee structures (e.g. minimum percentage to be retained by brokerage to help ensure brokerage supervisory and compliance functions are adequately funded);
- imposing mandatory requirements for licensees to report allegations of serious misconduct directly to RECBC (e.g. serious ethical breaches, wrongful taking, deceptive dealing, threats of retaliation against licensees or consumers, etc.);
- shifting vicarious liability to brokerages or brokerage owners; and
- changing legislation and/or policy to support a more rigorous assessment of the suitability of brokerage directors/partners and expanded authority to regulate brokerages.

Additional non-regulatory foundational changes, including best practices and tools, enhanced education including on FINTRAC compliance, and more proactive collection and analysis of real estate data, would be made as contemplated above.

SUMMARY OF CHANGES	CONSUMER PROTECTION IMPLICATIONS
<ul style="list-style-type: none"> <li>• Maintain the current role and duties of managing brokers</li> <li>• Managing broker retains vicarious liability; consideration could be given to also holding brokerages vicariously liable</li> <li>• Further enhancements to the status quo through a range of regulatory and non-regulatory changes</li> </ul>	<ul style="list-style-type: none"> <li>• Holding brokerages vicariously liable may encourage some brokerage owners to give greater consideration to the consumer protection risks posed by their business models and increase the focus on how to mitigate such risks</li> <li>• Individual licensees continue to be supervised by a licensee with greater regulatory education and responsibilities</li> <li>• Increased restrictions on how licensees structure their business affairs may reduce opportunities for innovation that benefit consumers</li> <li>• Regulating business models and practices would limit the ability of brokerages to employ models that lead to ineffective supervision and strengthen consumer protection</li> </ul>

## COMPLIANCE OFFICER

While managing brokers currently have a compliance function within the brokerage, this concept would limit the scope of their role to strictly compliance-related duties. Compliance officer roles exist in a number of industries (e.g. banking/financial services) which, like real estate, function within complex regulatory environments. A compliance officer's key 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) more 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.

The compliance officer's key duties and responsibilities would include developing and implementing an effective compliance program. This could mean, for example:

- Monitoring and interpreting regulatory developments that affect the brokerage's business and activities;
- Translating regulatory requirements into compliance-related policies and procedures that consider a brokerage's business practices and circumstances;
- Developing an effective compliance program to ensure that the brokerage complies with all relevant legislation; and
- Ensuring that compliance information is effectively communicated to the brokerage's licensees.

While these duties implicitly fall on managing brokers under the existing regulatory framework, the compliance officer concept has a number of notable distinctions. First, although the compliance officer would continue to be licensed, they would no longer have supervisory duties or related vicarious liability in relation to the conduct of the brokerage's licensees. Rather, the compliance officer's liability would be limited to the effectiveness and adequacy of the brokerage's compliance program while the brokerage itself would have vicarious liability for the conduct of its licensees.

Second, due to the narrowed accountabilities of the compliance officer, this licence level would not permit the compliance officer to provide real estate services to consumers. This could have the effect of broadening the appropriate education and qualification requirements of compliance officers to include a broader range of individuals from various professional backgrounds in addition to experienced senior licensees.

As a consequence, it is expected that the value placed by brokerage owners on the compliance function would increase, as brokerage owners would have a direct financial stake in ensuring that the brokerage recruits and retains a skilled compliance officer to assist them in managing business risk.

Significant regulatory changes would be required to implement this concept for the managing broker's role in the future, including changes to RESA, the Regulations and the Rules.

SUMMARY OF CHANGES	CONSUMER PROTECTION IMPLICATIONS
<ul style="list-style-type: none"> <li>• Re-position the role of managing broker as a compliance officer; emphasize compliance duties and eliminate supervisory and senior peer mentor roles (however, licensees could seek advice from other sources, e.g. RECBC Professional Standards Advisors)</li> <li>• Shift vicarious liability from the managing broker to the brokerage; no vicarious liability for the compliance officer</li> <li>• Significant regulatory and non-regulatory changes required</li> </ul>	<ul style="list-style-type: none"> <li>• A compliance officer would not have any fiduciary duties to clients of the brokerage and as a result, this concept removes potential for conflicts of interest and competition posed by the current managing broker role and the ability of managing brokers to provide real estate services directly to clients, primarily in trading services</li> <li>• While individual licensees would no longer be required to be supervised by another licensee with higher regulatory education, the brokerage would have a dedicated person focused on compliance to ensure adequate consumer protection and will continue to be subject to office and records inspections</li> </ul>

### SINGLE LICENSING (NO MANAGING BROKER)

The third concept for the future of the managing broker's role would be to eliminate the role completely. Some industry observers as well as licensees have characterized the managing broker as an administrator who works for the brokerage's related licensees to manage administrative matters (e.g. billing, reporting, record keeping, etc.). 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. Other professions that currently work in a single-licensing model include doctors, lawyers, architects and engineers.

A major implication of this concept is that individual licensees would be required to meet significantly higher education and qualification requirements. Higher barriers to entry to real estate licensing would be necessary to ensure licensees have a thorough knowledge of the regulatory framework so that real estate services consumers continue to benefit from adequate protections.

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, and significant regulatory changes would be required to implement it. The requirement for licensees to provide real estate services on behalf of a brokerage would be

removed. 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. Licensees would have flexibility in how they satisfy their regulatory duties with respect to administrative functions, for example by performing them for themselves, hiring a third-party service provider to perform them or joining with other licensees in a variety of business structures.

Key issues that would need to be worked out prior to implementation include, for example, arrangements to ensure the safe handling of trust monies as well as whether businesses that provide administrative services to licensees would themselves be regulated.

SUMMARY OF CHANGES	CONSUMER PROTECTION IMPLICATIONS
<ul style="list-style-type: none"> <li>• Elimination of the managing broker role; single level of licensing for real estate service providers</li> <li>• No vicarious liability; individual licensees bear full responsibility for ensuring their own business operations and activities comply with regulatory requirements</li> <li>• Significant regulatory and non-regulatory changes required, including significantly higher levels of pre-licensing education</li> </ul>	<ul style="list-style-type: none"> <li>• Individual licensees are no longer required to be supervised by another licensee with higher regulatory education, but will continue to be subject to office and records inspections</li> <li>• Removes the potential for conflicts of interest and competition posed by the current managing broker role and the ability of managing brokers to provide real estate services directly to clients, primarily in trading services</li> <li>• Individual licensees have a significant incentive to ensure that they maintain a higher level of knowledge and familiarity with the regulatory framework</li> <li>• Licensees have a greater incentive to ensure they are complying with the regulatory framework, which may include engaging an administrator to assist with some compliance duties</li> </ul>

## CONCLUSION AND NEXT STEPS

Since the implementation of RESA in 2005, brokerage business models and practices have significantly changed. BC's regulatory framework has not kept pace with these changes. This has contributed to pressures facing managing brokers and the industry in general. As a result, there is recognition of the need to explore both short- and long-term options to ensure that the regulatory framework effectively adapts to the changing real estate landscape. Presenting different concepts for the future role of managing brokers provides an opportunity to challenge assumptions about their roles and functions and to contemplate how various 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.

We wish to thank all licensees, particularly managing brokers, who took time to contribute to this work through our engagement activities to date, including those who emailed us their thoughts. Exploring regulatory issues requires input from many sources to find positive long-term solutions. Feedback from licensees and other key stakeholders has helped us to better understand the challenges facing managing brokers and the real estate industry in general and to identify potential risks of consumer harm related to those challenges. Feedback on the concepts and options presented in this discussion paper will give us a greater understanding of the opportunities and challenges of pursuing a particular change.

This discussion paper purposely does not provide much detail about the potential implementation of the different concepts for the future role of managing brokers. The implementation of any of the concepts will be informed by the feedback received on this paper. The concepts and options explored in this discussion paper are not pre-determined outcomes. Regardless of which concept is ultimately chosen, its success will depend on the ability of licensees to effectively identify, plan for and mitigate risk as the real estate industry and its business practices continue to evolve.

In 2020, we will release a report that outlines the feedback we receive as part of this consultation process. Before any of the proposed options are implemented, additional opportunities for engagement and consultation will be provided.

## HOW TO PARTICIPATE

You can help shape the future of the role of managing brokers in BC by reading this discussion paper, thinking about the impacts on industry and consumers, and letting us know what you think. While we welcome comments on all aspects of the discussion paper, we are most interested in your feedback on each of the three concepts. In particular:

- 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?
- As we examine each of the concepts for the future role of managing brokers, what considerations should we be aware of?
- 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?
- Do you have any other comments or feedback on the discussion paper?

You can share your feedback on these questions by submitting your comments to [OSREpolicy@gov.bc.ca](mailto:OSREpolicy@gov.bc.ca).

## APPENDIX

BACKGROUND AND CONTEXT:  
MANAGING BROKERS AND THE REGULATORY FRAMEWORK

The *Real Estate Services Act* establishes three categories of real estate services:

1. rental property management (e.g. acting as agent for a landlord);
2. strata management (e.g. acting as agent for a strata corporation); and
3. trading (e.g. acting as agent for anyone buying, selling or leasing real estate).

A brokerage and an individual can be licensed to provide one or more category of real estate services. Under the *Act*, the term “licensee” is used to describe both brokerages and individuals (representatives, associate brokers and managing brokers) that are licensed under the regulatory framework.

All individual licensees must provide their services through and on behalf of a brokerage, which is a business licensed to provide real estate services. Individuals holding a managing broker licence have the most responsibilities under the regulatory framework. With this level of licence, an individual can still provide real estate services

directly to clients but has additional responsibilities, including duties to supervise and oversee the activities of representatives, associate brokers and unlicensed brokerage staff (e.g. administrative staff). A representative is the first licence level for a real estate professional. Most licensees, regardless of the number of years of experience they have, are representatives. Associate brokers have the same education as a managing broker but are not actively practicing as a managing broker. Associate brokers have the same responsibilities and obligations to clients and to their brokerage as do representatives. At any time, an associate broker can upgrade their licence to become a managing broker.

The *Act* and the Rules describe the responsibilities of managing brokers to control and direct the operations of the brokerage.<sup>4</sup> The current regulatory framework places the managing broker in a prominent role to ensure the activities and practices of the brokerage – and the licensed and

### SNAPSHOT OF LICENSEES AS OF MARCH 31, 2019

Managing Brokers	1357
Associate Brokers	1514
Representatives	22 982
<b>Total Individuals<sup>3</sup></b>	<b>25 853</b>
<b>Brokerages + Branch Offices</b>	1548

RECBC’s website has a registry, known as the [Licensee Search](#), which allows the public to confirm whether an individual is licensed and provides the public with information about real estate licensees, including contact details and any conditions or restrictions on their licence.

<sup>3</sup> Excludes Personal Real Estate Corporations

<sup>4</sup> See section 6(2) of the *Act* and Rules sections 3-1 and 3-3.2(5)(c), and Parts 7 and 8.

unlicensed staff who provide services on its behalf – comply with the requirements of the Act, the Regulations and the Rules. In addition to this general regulatory requirement, the Rules enumerate four specific duties for managing brokers relating to supervision, knowledge of improper conduct, brokerage records and accounts, and notice to consumers respecting deposits. To supplement these requirements RECBC has published practice advice for managing brokers outlining the expected standards for ensuring adequate supervision, such as:

- being available to assist and advise licensed and unlicensed staff in day-to-day activities;
- providing training and guidance;
- fostering an understanding of, and compliance with, regulatory requirements (e.g. promote awareness of rules, review of the brokerage procedures manual, communicate changes in the law); and
- reviewing documentation (e.g. service agreements and other contracts) and maintain legible copies at the brokerage.

In short, the regulatory framework places an over-riding duty on the managing broker to oversee the activities of the brokerage's licensees and unlicensed staff to ensure real estate services provided on behalf of the brokerage comply with the regulatory requirements. Managing brokers also play an important role in the broader functioning of the regulatory framework and the protection of real estate consumers. At the same time, the regulatory framework does not limit the ability of the managing broker to take on other roles within a brokerage, including representing clients in real estate transactions as a direct service provider.

Every brokerage is required to have a managing broker, who may be licensed in relation to up to a total of four affiliated brokerages and/or branch offices. A brokerage may only provide those categories of real estate services for which the managing broker is licensed and any conditions or restrictions placed on the managing broker's licence flow up to the brokerage and back down to the related licensees.

As noted in the table above, there are approximately 1,357 individuals licensed as managing brokers in BC. The majority of managing brokers are licensed to provide trading and/or rental property management services. Across the industry, there is an average of one managing broker for every 18 licensees. However, the number of licensees that are supervised by any individual managing brokers varies across brokerages and regions.

Managing brokers are generally older, on average, than other licensees. About 75% of managing brokers are aged 50 years or older, and nearly two-thirds of those (51% of all managing brokers) are aged 60 years or older. By contrast, about 70% of representatives are aged 29-58, with another 6% in the 19-28 years age group and 17% in the 59-69 years age groups. Further, according to a fall 2018 survey, over one-third of managing broker respondents indicated that they plan to retire or downgrade their licence in the next five years. As a result, there are succession planning concerns on the horizon that could exacerbate some of the identified challenges.



LIST OF ACRONYMS AND ABBREVIATIONS

**Act** – Real Estate Services Act

**BC** – British Columbia

**Broker's Licensing Course** – Broker's Business Planning and Financial Management Licensing Course

**FINTRAC** – Financial Intelligence Reporting and Analysis Centre

**IAG** – Independent Advisory Group on Real Estate Regulation in British Columbia

**Ministry** – Ministry of Finance

**OSRE** – Office of Superintendent of Real Estate

**RECBC** – Real Estate Council of British Columbia

**Regulation** – Real Estate Services Regulation

**REP** – Re-Licensing Education Program

**RESA** – Real Estate Services Act

**Rules** – Real Estate Rules

## ABOUT THE REGULATORS

OSRE and RECBC are jointly responsible for the regulation of real estate services in BC. The Act currently establishes a co-regulatory model in which each of the regulators has distinct responsibilities for the various components of the regulation of real estate licensees under the Act. In addition, OSRE has regulatory responsibilities under the *Real Estate Development Marketing Act* and under the *Strata Property Act*. Both OSRE and RECBC are mandated to protect the public interest and to protect consumers from harm. The table below describes the respective roles of OSRE and RECBC.

The Ministry is also involved in this work as the Act and its regulations fall under the responsibility of the Minister of Finance.

Office of the Superintendent of Real Estate	Real Estate Council of British Columbia
<ul style="list-style-type: none"> <li>• Co-regulate real estate licensees with RECBC</li> <li>• Make rules to establish standards of conduct for real estate licensees</li> <li>• Provide oversight of RECBC</li> <li>• Take enforcement action against individuals providing unlicensed real estate services</li> <li>• Regulate the marketing of multi-unit real estate developments under the <i>Real Estate Development Marketing Act</i></li> <li>• Approve certain strata plan schedules under the <i>Strata Property Act</i></li> </ul>	<ul style="list-style-type: none"> <li>• Co-regulate real estate licensees with OSRE</li> <li>• License real estate professionals (licensees)</li> <li>• Enforce the standards of conduct that are established by the <i>Real Estate Services Act</i>, the regulations, and the Superintendent of Real Estate</li> <li>• Investigate and discipline licensees who are found to have committed misconduct under the <i>Real Estate Services Act</i></li> <li>• Set entry requirements and education standards for licensees</li> <li>• Provide support for consumers to make informed decisions when acquiring or disposing of real estate</li> </ul>