

The adjusted amounts are reduced to the nearest dollar if they contain a fraction of a dollar less than \$0.50; they are increased to the nearest dollar if they contain a fraction of a dollar equal to or greater than \$0.50.

The results of the adjustment are to be published in the *Gazette officielle du Québec*.

#### CHAPTER IV ADDITIONAL TRAINING OF BROKERS AND AGENCY EXECUTIVE OFFICERS

**48.** The purpose of the additional training activities is to enable brokers and agency executive officers to develop, maintain, update, improve and broaden professional skills associated with their activities.

**49.** The additional training activities to be taken by all or some of the brokers or agency executive officers must deal with the following subject-matters in particular:

(1) general or special legal rules that apply to brokerage transactions described in section 1 of the Real Estate Brokerage Act;

(2) any legislative or regulatory reform that may affect the activities of brokers and agencies;

(3) the content, use and drafting of contracts and forms relating to brokerage transactions described in section 1 of the Real Estate Brokerage Act;

(4) any material, physical or environmental consideration that may affect the object of a brokerage transaction described in section 1 of the Real Estate Brokerage Act;

(5) ethics and professional conduct of brokers and agency executive officers;

(6) management of the professional activities of brokers and agency executive officers;

(7) assessment of the value of an immovable or enterprise;

(8) assessment of the quality and construction features of an immovable;

(9) financial implications of transactions described in section 1 of the Real Estate Brokerage Act; and

(10) financing of transactions described in section 1 of the Real Estate Brokerage Act.

**50.** For every training activity to which this Chapter applies, the Organization must

(1) approve the content;

(2) set the duration of the activity and time within which it must be taken; and

(3) specify the training personnel, bodies or educational institutions qualified to offer it.

**51.** This Regulation comes into force on 1 May 2010.

#### SCHEDULE A (s. 25)

##### “OATH OF DISCRETION

I, A.B., swear under oath that I will not, without being so authorized by law, disclose or make known anything whatsoever of which I may take cognizance in the performance of my duties.”

9757

Gouvernement du Québec

#### **O.C. 296-2010, 31 March 2010**

Real Estate Brokerage Act  
(2008, c. 9)

#### **Records, books and registers, trust accounting and inspection of brokers and agencies**

Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies

WHEREAS section 10 of the Real Estate Brokerage Act (2008, c. 9) provides that the Organisme d'autoréglementation du courtage immobilier du Québec (the Organization) must, by regulation, prescribe terms and conditions for depositing in a trust account all money received by a broker in the course of the broker's functions that does not belong to the broker, and terms and conditions for paying into the financing fund established by the Organization the non refundable interest earned on unclaimed money held in trust;

WHEREAS paragraph 9 of section 46 of the Act, amended by paragraph 2 of section 145 of chapter 58 of the Statutes of 2009, provides that, in addition to its regulatory powers under the Act, the Organization may determine, by regulation, the nature, form and tenor of the records, books and registers that must be kept by brokers and agencies, as well as rules for the preservation, use and destruction of records, books and registers;

WHEREAS paragraph 10 of section 46 of the Act provides that, in addition to its regulatory powers under the Act, the Organization may determine, by regulation, rules for opening and maintaining a trust account, as well as the terms and conditions governing deposits and withdrawals;

WHEREAS paragraph 10.1 of section 46 of the Act, enacted by paragraph 3 of section 145 of chapter 58 of the Statutes of 2009, provides that, in addition to its regulatory powers under the Act, the Organization may determine, by regulation, what measures may be taken to safeguard money entrusted to a licence holder or held in trust, and who may take such measures;

WHEREAS section 47 of the Act provides that the Organization must, by regulation, establish a financing fund made up of the interest earned on the money held in trust, and determine rules for the administration of the fund and the terms of payment of interest into the fund;

WHEREAS section 49 of the Act provides that the Organization may, for the purposes of any regulation, establish special or supplementary rules for real estate brokers, mortgage brokers, real estate agencies or mortgage broker agencies;

WHEREAS section 76 of the Act, amended by section 146 of chapter 58 of the Statutes of 2009, provides that the Organization must, by regulation, set out operating rules for the inspection committee;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies was published in Part 2 of the *Gazette officielle du Québec* of 13 January 2010 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation with amendments that clarify certain regulatory provisions or correct references;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies, attached to this Order in Council, be approved.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

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## **Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies**

Real Estate Brokerage Act  
(2008, c. 9, ss. 10, 46, pars. 9 to 10.1, 47, 49 and 76;  
2009, c. 58, ss. 145 and 146)

### **CHAPTER I REGISTERS AND RECORDS**

#### **DIVISION I GENERAL**

**1.** A broker or agency must keep and maintain the registers and records prescribed by this Chapter.

Where a broker acts for an agency, the obligations related to the keeping of registers and records are delegated to the agency. The broker must send all the information required for that purpose to the agency without delay.

#### **DIVISION II KEEPING OF REGISTERS**

**2.** A broker or agency must keep the following registers at the establishment:

- (1) a register of brokerage contracts;
- (2) a register of transactions;
- (3) accounting registers on the amounts held in trust by the broker or the agency;
- (4) a register of disclosure notices required by section 18 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising approved by Order in Council 299-2010 dated 31 March 2010;
- (5) a register on the accounting of the broker or the agency; and
- (6) a register of the brokers acting for the agency.

**3.** The register of brokerage contracts must provide, in ascending order, the numbers attributed by the licence holder to each brokerage contract. The register contains, for each contract,

- (1) where the contract concerns the purchase, sale, lease or exchange of an immovable property or the purchase or sale of an enterprise, the address of the immovable or enterprise covered by the contract or its cadastral description if there is no address;

(2) where the contract concerns a loan secured by immovable hypothec, the name and contact information of the person or partnership that awarded the contract;

(3) the date on which the contract was awarded to the licence holder;

(4) the number attributed to the contract from a series of consecutive numbers used only by the licence holder; and

(5) if applicable, the name of the broker acting for the agency for the performance of the contract;

(6) if applicable, the money received in trust as an advance on remuneration or costs.

**4.** The register of transactions must provide, in ascending order, the numbers attributed to each transaction. The register must contain, for each transaction,

(1) the number attributed to the transaction, from a series of consecutive numbers used only by the licence holder;

(2) the date of acceptance of the transaction proposal;

(3) the address of the immovable or enterprise to which the transaction pertains, or its cadastral description if there is no address;

(4) the sum received in trust, where applicable;

(5) the name of the broker to whom the transaction proposal was awarded; and

(6) the name of the person or partnership with whom the licence holder shares remuneration and, where applicable, the number of the broker's or agency licence or the number of the permit, licence, certificate or any other form of authorization issued outside Québec or under an Act other than the Real Estate Brokerage Act.

**5.** The accounting register showing the sums held in trust must be integrated into an accounting system kept according to generally accepted accounting principles. The register contains, in chronological order,

(1) in the case of a sum received in trust and deposited into the general trust account:

(a) the number attributed to the transaction by the licence holder, where applicable;

(b) the sum received;

(c) the number of the receipt issued to the depositor for the sum received;

(d) the date of deposit with the financial institution;

(e) identification of the depositor; and

(f) the balance of the general trust account;

(2) in the case of a sum received in trust and withdrawn from the general trust account:

(a) the number attributed to the transaction by the licence holder, where applicable;

(b) the sum withdrawn;

(c) the number attributed to the cheque, bill of exchange or transfer slip used for the withdrawal;

(d) the name of the recipient of the cheque, bill of exchange or transfer slip used for the withdrawal;

(e) the date appearing on the cheque, bill of exchange or transfer slip used for the withdrawal; and

(f) the balance of the general trust account;

(3) in the case of a sum received in trust and deposited into a special trust account:

(a) the information provided for in paragraph 1;

(b) identification of the special account; and

(c) the name of the financial institution with which the account was opened;

(4) in the case of a sum received in trust and withdrawn from a special trust account:

(a) the information provided for in paragraph 2;

(b) identification of the special account; and

(c) the name of the financial institution with which the account was opened.

**6.** The register of disclosure notices must provide, in ascending order, the numbers attributed to each disclosure notice. The register contains, for each transaction for which such a notice is required under section 18 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising,

(1) the name of the licence holder producing the disclosure notice and the holder's licence number;

(2) the object and nature of the transaction;

(3) the nature of the interest that the licence holder has or intends to acquire;

(4) identification of the parties to the transaction;

(5) the sale price accepted or the amount of the loan granted;

(6) the date and time of the drafting of the transaction proposal;

(7) the date and time of the acceptance of the transaction proposal; and

(8) the date and time the notice is received by each prospective contracting party.

**7.** Each year, before 31 March, and each time the Organisme d'autoréglementation du courtage immobilier du Québec so requests, the licence holder must send a copy of the register of disclosure notices to the Organization.

**8.** The accounting register of the enterprise must be integrated into an accounting system kept according to generally accepted accounting principles.

**9.** The register of brokers acting for an agency must contain a complete updated list of the names and licence numbers of the brokers through whom the agency engages in brokerage transactions described in section 1 of the Real Estate Brokerage Act.

### **DIVISION III** KEEPING OF RECORDS

**10.** A broker or agency must keep the following records at the establishment:

(1) a record for each brokerage contract;

(2) a record for all the transaction proposals not accepted;

(3) a record for each transaction; and

(4) a record for disclosure notices.

**11.** The record for a brokerage contract contains

(1) the brokerage contract;

(2) any document currently or previously used in the performance of the contract, including any document used to demonstrate the accuracy of the information provided; and

(3) the content of the record provided for in section 13, where applicable.

**12.** The record for all the transaction proposals not accepted contains the transaction proposals that were not accepted, in the case where the licence holder is not the licence holder to whom a brokerage contract was awarded.

**13.** The record for a transaction contains the transaction proposal accepted and any other document used to complete the transaction.

**14.** The record for all the disclosure notices contains

(1) the disclosure notices required by section 18 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising, duly completed, and proof of their receipt; and

(2) the transaction proposal accepted and all documents related thereto, unless the documents have been filed in any of the records provided for in paragraphs 2 and 3 of section 10.

### **DIVISION IV** PRESERVATION, USE AND DESTRUCTION OF REGISTERS AND RECORDS

**15.** A licence holder must take the measures necessary to prevent the loss or destruction of registers and records and to prevent any falsification of the information and documents contained therein.

**16.** A licence holder must ensure that registers and records are conserved in such a way that an unauthorized person may not have access thereto.

When the registers and records are conserved on a technological medium, access to the documents contained therein must be limited to the persons employed by or authorized to act for the licence holder, for the information necessary for the carrying on of their activities.

**17.** A licence holder must conserve the registers and records for at least 6 years following their final closing. After the 6 year period, those registers and records may be destroyed unless they constitute evidence in a civil, disciplinary, penal or criminal action.

**18.** The destruction of registers and records must be done by taking the measures necessary to protect the confidential nature of the information contained therein.

**19.** A broker who ceases to practise on his or her account or an agency that ceases to practise must, without delay, turn over registers and records, other than those relating to the accounting for his or her enterprise, to a broker acting on his or her account or to an agency, holding the licence or licences necessary to maintain such registers and records.

The broker or agency receiving the registers and records has the same obligations for preservation, use and destruction as the broker or agency has for their own registers and records.

**20.** A licence holder receiving the registers and records from another licence holder, in accordance with section 19, must, within 30 days following the date of receipt, so notify the Organization in writing.

**21.** A licence holder who ceases activities and who has no person to turn over his or her registers and records, in accordance with section 19, must send a notice to the Organization indicating the address where the registers and records are maintained, attesting to the security of the location, with respect in particular to the destruction of the registers and records, and guaranteeing the protection of the confidential information contained therein. Any change of location where the registers and records are maintained must be notified in writing to the Organization.

**22.** As soon as a licence holder ceases activities, the licence holder must send the Organization

- (1) the register of disclosure notices; and
- (2) the documents provided for in section 38.

**23.** The registers and records of a licence holder who ceases activities without complying with sections 19 and 21 may be seized and archived by the Organization. All costs incurred must be paid by the licence holder.

## CHAPTER II TRUST ACCOUNTS

### DIVISION I GENERAL

**24.** A broker must, in accordance with this Chapter, open and maintain a trust account.

Where a broker acts for an agency, the obligations related to the opening and maintaining of a trust account are delegated to the agency. The broker remains responsible with the agency for the obligations imposed in this Chapter.

An agency may delegate to only one other agency the obligations related to the opening and maintaining of a trust account that were delegated to the agency by the brokers acting for the agency. Those brokers remain responsible for the obligations imposed in this Chapter, with their agency and the agency to which they were delegated. A written notice of the delegation must be sent to the Organization without delay.

This section does not apply to a broker who files a declaration with the Organization to the effect that the broker

- (1) is employed by the Organization; or
- (2) is employed by a person who is not an agency and the broker engages, as such, in no brokerage transaction described in section 1 of the Real Estate Brokerage Act.

**25.** The sums that must be paid into a trust account are paid immediately, under the terms of the trust provided for in the transaction proposal or under the terms of any other agreement, into a general trust account opened under the name of the licence holder.

Where a person who entrusted a sum to the licence holder expressly requests that the interest on that sum be remitted to him or her, the licence holder must immediately transfer the sum from the general trust account to a special trust account. The broker or the agency must ensure that the name of the client for whom the account is opened is indicated.

**26.** Any sum received by a licence holder as advance on remuneration or disbursements must be paid without delay into the general trust account opened under the name of the licence holder receiving the sum.

**27.** A sum received by a licence holder and paid into a trust account in accordance with sections 25 and 26 may be paid in Canadian or foreign currency.

### DIVISION II OPENING OF A GENERAL TRUST ACCOUNT OR A SPECIAL TRUST ACCOUNT

**28.** A licence holder opens only one general trust account, as soon as the licence holder's activities so require and not later than 10 days after the licence is issued, and as many special trust accounts as necessary, in which the sums held are deposited, including advances on remuneration, given by a client or another person.

The accounts must be composed of deposits covered by the deposit insurance under the Canada Deposit Insurance Corporation Act (R.S.C. 1985, c. C-3) or guaranteed under the Deposit Insurance Act (R.S.Q., c. A-26).

The accounts must be opened in Québec, in a financial institution governed by the Act respecting trust companies and savings companies (R.S.Q., c. S-29.01), the Bank Act (S.C. 1991, c. 46), the Act respecting financial services cooperatives (R.S.Q., c. C-67.3) or the Trust and Loan Companies Act (S.C. 1991, c. 45) and with which the Organization has entered into an agreement on the payment of interest into the Financing fund of the Organization.

**29.** When opening a general trust account, a licence holder must complete and send a declaration related to the opening of an account to the depository financial institution and the Organization. The licence holder must keep a copy for inspection purposes.

The declaration related to the opening of an account must indicate

(1) the name and address of the financial institution to which the declaration is addressed;

(2) the name of the broker or the agency executive officer making the declaration, the number of the holder's licence and the address of the establishment;

(3) the date on which the account is opened;

(4) that the general account opened at the financial institution in the name of the licence holder is "in trust";

(5) the account number;

(6) that the account contains sums that the licence holder receives or will receive in trust in the carrying on of the holder's activities and that the account is governed by the Real Estate Brokerage Act;

(7) that the interest generated by the sums deposited into the account must be paid into the Financing fund of the Organization;

(8) that the financial institution is authorized to transfer directly to the Financing fund of the Organization the interest generated by the account and to deduct at source, if applicable, the administrative costs provided for in the agreement entered into or to be entered into with the Organization;

(9) the persons authorized to sign, on behalf of the licence holder, any document related to the current transactions of the account and the signature of each person;

(10) that at all times, the Organization is irrevocably authorized to request and obtain from the financial institution any information, explanation or copy of a document necessary or useful for the purposes of auditing the account; and

(11) that the Organization is irrevocably authorized to freeze the sums held in trust, take possession of any sum entrusted to a licence holder, revoke the signature of the broker or agency executive officer or close any of their trust accounts.

**30.** Where a licence holder opens a special trust account, the licence holder must complete a declaration related to the opening of an account, keep a copy of the declaration for inspection purposes and send the declaration without delay to the depository financial institution.

The declaration must indicate, in addition to the elements referred to in paragraphs 1, 2, 3, 5, 9, 10 and 11 of section 29,

(1) the name and address of the depositor;

(2) the sum received and an indication that the sum is received "in trust" in the carrying on of the broker's activities;

(3) that the sum is deposited into a special account opened "in trust" with the financial institution under the name of the licence holder;

(4) that the account is governed by the Real Estate Brokerage Act; and

(5) that the interest generated by the sum deposited into the account belong to the depositor.

### **DIVISION III** **MANAGEMENT OF TRUST ACCOUNTS**

**31.** When a licence holder receives a sum in cash, the licence holder must give the depositor a receipt indicating

(1) the date the sum is received;

(2) the amount received and the currency of the sum;

(3) whether the sum is received for someone else's account or as advance on remuneration or disbursements;

(4) the name, address, date of birth and occupation of the depositor;

(5) that, as soon as the sum is deposited into a trust account, a receipt will be issued to the depositor;

(6) the name and signature of the person who, on the licence holder's behalf, receives the sum; and

(7) the name of the licence holder, the address of the holder's establishment and the number of the holder's licence.

**32.** As soon as a licence holder has deposited a sum into a general or special trust account, or the sum has been deposited in trust by electronic transfer, the licence holder must give the depositor a receipt with a number, from a series of consecutive numbers, attributed to the receipts the licence holder issues. The licence holder must keep a duplicate of the receipt in his or her records.

The receipt must be signed by the person authorized by the licence holder and, in addition to the elements referred to in paragraphs 1, 2, 3 and 6 of section 31, indicate

- (1) the form under which the sum was received;
- (2) that the sum is received for deposit into the trust account of the licence holder;
- (3) the purposes for which the sum is received; and
- (4) that the licence holder will use the sum for those purposes, in accordance with the Real Estate Brokerage Act.

**33.** When the payment of a cheque or another bill of exchange received as a deposit or arrears is refused by the financial institution from which it is drawn, or the sum is not received within the period provided for in the transaction proposal, a licence holder must, without delay, so inform the parties to the transaction in writing.

**34.** Every withdrawal from a general or special trust account must be made by electronic transfer, a cheque, another bill of exchange or a transfer slip bearing the number attributed to the transaction concerned.

The licence holder must keep a copy of a document evidencing an electronic transfer, cheques, bills of exchange and transfer slips, and a copy of the cheques and bills of exchange cashed in, for the purposes of inspection by the Organization.

**35.** A sum corresponding to an advance on remuneration or disbursements that is deposited in the trust account of a licence holder may be withdrawn when the invoicing or the amount of the disbursements stated in writing has been sent to or accepted by the depositor.

**36.** Cheques, bills of exchange and transfer slips and any document evidencing an electronic transfer that a licence holder draws from a general or special trust account must bear

(1) a number from a series of consecutive numbers attributed by the licence holder to the cheques, bills of exchange and transfer slips, and to documents evidencing an electronic transfer; and

(2) except for a document evidencing an electronic transfer, the indication "trust account governed by the Real Estate Brokerage Act".

#### DIVISION IV KEEPING OF TRUST ACCOUNTS

**37.** A licence holder must maintain separate accounting for each trust account and prepare a monthly reconciliation thereof, according to generally accepted accounting principles.

**38.** Each year, before 31 March, and each time the Organization so requests, a licence holder must send the Organization

(1) a summary of the deposits into and withdrawals from the holder's general trust account and all special trust accounts including

- (a) identification of the period covered;
- (b) for the general trust account:
  - i. the balance of the general trust account according to the accounting register at the start of the period;
  - ii. the total of the sums deposited during the period;
  - iii. the sum of the amounts referred to in subparagraphs *i* and *ii*;
  - iv. the total of the sums withdrawn during the period;
  - v. the balance of the account according to the accounting register at the end of the period, established by subtracting the sum mentioned in subparagraph *iv* from the sum obtained in subparagraph *iii*;

- (c) for all the special trust accounts:
  - i. the balance of the special trust accounts according to the accounting registers at the start of the period;
  - ii. the total of the sums deposited during the period;

- iii. the interest deposited during the period;
  - iv. the sum of the amounts mentioned in subparagraphs *i*, *ii* and *iii*;
  - v. the total of the sums withdrawn during the period;
  - vi. the total of the interest withdrawn during the period;
  - vii. the sum of the amounts mentioned in subparagraphs *v* and *vi*;
  - viii. the balance for all the special accounts, according to the accounting register at the end of the period, established by subtracting the sum mentioned in subparagraph *vii* from the sum obtained in subparagraph *iv*;
- (*d*) the total of the balances, according to the accounting registers at the end of the period, established by adding the balances in subparagraph *v* of subparagraph *b* and subparagraph *viii* of subparagraph *c*;
- (2) a copy of the bank reconciliation statement, established at the end of the calendar year or for the period for which the Organization requests it, for the general trust account and each of the special trust accounts including
- (*a*) the date on which ends the period covered;
  - (*b*) for the general trust account:
    - i. the name and address of the financial institution and the number of the general trust account;
    - ii. the balance of the general trust account, according to the financial institution's statement;
    - iii. the total of the sums not yet deposited;
    - iv. the sum of the amounts mentioned in subparagraphs *ii* and *iii*;
    - v. the total of the outstanding cheques, bills of exchange and transfer slips;
    - vi. the balance of the general trust account after reconciliation, established by subtracting the sum mentioned in subparagraph *v* from the sum mentioned in subparagraph *iv*;
    - vii. the balance mentioned in subparagraph *v* of subparagraph *b* of subparagraph 1;
    - viii. the difference between what is mentioned in subparagraphs *vi* and *vii*;
  - (*c*) for all the special trust accounts:
    - i. the name and address of the financial institution and the number of each special trust account;
    - ii. the balance of each special trust account, according to the financial institution's statement;
    - iii. the total of the sums not yet deposited in each special trust account;
    - iv. the sum of the amounts mentioned in subparagraphs *ii* and *iii*;
    - v. the total of the outstanding cheques, bills of exchange and transfer slips for each special trust account;
    - vi. the balance of each special trust account after reconciliation, established by subtracting the sum mentioned in subparagraph *v* from the sum mentioned in subparagraph *iv*;
    - vii. the total of all the special trust accounts;
    - viii. the balance mentioned in subparagraph *viii* of subparagraph *c* of subparagraph 1;
    - ix. the difference between what is mentioned in subparagraphs *vii* and *viii*;
  - (*d*) the total of the balances according to the accounting registers at the end of the period, established by adding the balances provided for in subparagraph *vi* of subparagraph *b* and in subparagraph *vii* of subparagraph *c*;
- (3) the detailed list of the sums held in the licence holder's general trust account and special trust accounts at the end of the calendar year or the period for which the Organization requests the list. The list must contain
- (*a*) the date of the end of the period covered;
  - (*b*) for the general trust account:
    - i. the number attributed to each transaction by the licence holder;
    - ii. the sum held with respect to each transaction;
    - iii. the total of the sums held in the general account;
  - (*c*) for the special trust accounts:
    - i. the number attributed to each transaction by the licence holder;



- ii. the sum held in each special trust account;
- iii. the number of the special trust account;
- iv. the total of the sums held in the special trust accounts;

(d) the total of the balances according to the detailed list of the sums held at the end of the period, established by adding the balances provided for in subparagraph *iii* of subparagraph *b* and in subparagraph *iv* of subparagraph *c*.

The total amounts appearing under the headings mentioned in subparagraph *d* of subparagraph 1, subparagraph *d* of subparagraph 2 and subparagraph *d* of subparagraph 3 must coincide.

Each document required under subparagraphs 1, 2 and 3 of the first paragraph must contain the name of the licence holder, be signed by a person authorized by the licence holder and bear the date of the signature.

**39.** A licence holder holding sums in trust that are considered as unclaimed property within the meaning of the Public Curator Act (R.S.Q., c. C-81) must dispose of the sums in accordance with that Act and so notify the Organization without delay.

#### DIVISION V CLOSING OF A TRUST ACCOUNT

**40.** When closing a general trust account, a licence holder must send without delay to the Organization a notice containing

- (1) the name and address of the financial institution and the account number;
- (2) the date on which the account is closed; and
- (3) the name, address and licence number of the broker or agency.

#### DIVISION VI MISCELLANEOUS

**41.** The Organization, the inspection committee, an inspector, the syndic or an assistant syndic may

- (1) require and obtain at any time from the financial institution that is the depository of every general or special trust account all the information or explanations deemed necessary or useful for the purposes of this Regulation;

- (2) require and obtain at any time from the financial institution in which sums belonging to clients are deposited and which should have been deposited by the licence holder in a general or special trust account all the information or explanations deemed necessary or useful for the purposes of this Regulation;

- (3) freeze the sums held in trust; and

- (4) take possession of any sum entrusted to a licence holder, revoke the signature of the broker, agency executive officer or any other person authorized to sign for the licence holder, or close any of their general or special trust accounts.

#### CHAPTER III FINANCING FUND

**42.** The “Fonds de financement de l’Organisme d’autoréglementation du courtage immobilier du Québec” is established.

The financing fund must be used in particular to produce and disseminate information on the public’s rights in real estate brokerage and to promote the quality of services by brokers and agencies.

**43.** The accounting for the financing fund is integrated into the accounting of the Organization, but constitutes a separate part of the accounting.

**44.** The Organization enters into, with the financial institutions that are the depositories of the general trust accounts held by licence holders, agreements on the interest to be paid on those accounts and the transfer of the interest to the financing fund, and any other agreement useful for the purposes of this Chapter.

#### CHAPTER IV INSPECTION COMMITTEE

##### DIVISION I COMPOSITION OF THE INSPECTION COMMITTEE

**45.** The inspection committee is composed of at least 3 and not more than 9 members, including a chair, appointed for a 3-year term by the board of directors of the Organization.

At the end of their term, the members remain in office until they are replaced, dismissed or reappointed or until they resign.

**46.** The sittings of the committee may be held using any medium that enables participants to communicate with each other. They are then deemed to have been present at the sitting.

**47.** A member of the inspection committee, an inspector and any expert whose services are retained by them must take the oath set out in Schedule A to this Regulation.

## DIVISION II

### ORDER OF THE INSPECTION COMMITTEE TO COMPLETE A COURSE OR TAKE A TRAINING PROGRAM

**48.** The committee, before requiring a broker or an agency executive officer to successfully complete a course or to take a training program and at least 15 days before the date set for the ruling, informs the broker or the executive officer of his or her right to submit written observations to the committee and send the committee the documents necessary to complete the file. The notice must also indicate the consequences of the ruling.

The committee may render a decision despite the absence of written observations or additional documents produced by the broker or the agency executive officer to complete the file.

**49.** Where the inspection committee requires a broker or an agency executive officer to successfully complete a course or to take a training program, the committee notifies the broker or the executive officer that he or she may request the review of such an order by the Organization's board of directors within 30 days after receiving the decision of the inspection committee.

The notice must indicate that the broker or the executive officer may submit, within the 30-day period, written observations and, where applicable, the documents necessary to complete the file. The notice also indicates that the Organization's board of directors may render its decision despite the absence of observations or additional documents to complete the file.

**50.** This Regulation comes into force on 1 May 2010.

## SCHEDULE A

(s. 47)

### “OATH OF DISCRETION

I, A.B., swear under oath that I will not, without being so authorized by law, disclose or make known anything whatsoever of which I may take cognizance in the performance of my duties.

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Gouvernement du Québec

## O.C. 297-2010, 31 March 2010

Real Estate Brokerage Act  
(2008, c. 9)

### Disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec

Regulation respecting disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec

WHEREAS the second paragraph of section 82 of the Real Estate Brokerage Act (2008, c. 9) provides that the Organisme d'autoréglementation du courtage immobilier du Québec (the Organization) determines, by regulation, the rules for appointing the syndic and any replacements;

WHEREAS the second paragraph of section 90 of the Act provides that the Organization determines, by regulation, the operating rules of the syndic decision review committee, including those applicable to its decision-making process;

WHEREAS the first paragraph of section 95 of the Act, amended by section 148 of chapter 58 of the Statutes of 2009, provides that the Organization determines, by regulation, the discipline committee's operating rules, including those applicable to the filing and hearing of complaints and those applicable to its decision-making process, such as the imposition of provisional measures;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft Regulation respecting disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec was published in Part 2 of the *Gazette officielle du Québec* of 13 January 2010 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation with amendments that clarify certain regulatory provisions or correct references;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation respecting disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec, attached to this Order in Council, be approved.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*