

October 25, 2022

To all brokers under *The Real Estate Services Act*

Province of Manitoba

Re: Individuals Previously Registered as Authorized Officials

When *The Real Estate Services Act* (“RESA”) came into force on January 1, 2022, all registrants’ registrations transitioned automatically from their previous category under *The Real Estate Brokers Act* (“REBA”) to their corresponding category under RESA.

One item of note in this transition process deals with those individuals previously registered as authorized officials under REBA. Authorized officials registered in a management capacity as either the Manitoba Representative or the manager of an office for a brokerage, and thus deemed responsible under REBA for managing brokerage operations, transitioned to a corresponding management category under RESA. Authorized officials not registered in a management capacity under REBA, and thus not deemed to be responsible for managing brokerage operations, transitioned to the salesperson category.

Commission staff would like to emphasize that their main concern in this process is that individuals tasked with managing a brokerage are truly involved in management and have the required knowledge, skills, and training to do so. RESA imposes specific duties on individuals designated to manage a brokerage and the transition process outlined above intends to ensure that individuals in a management position have current experience and training.

Under RESA, a brokerage with a single office may have two individuals registered at a management level. For a real estate brokerage, this would include a broker and an associate broker. If a brokerage had more than one registered authorized official under REBA, but only appointed one person at a management capacity, this resulted in the brokerage only having one management person, the broker, after the transition to RESA with any additional authorized officials becoming salespeople.

Commission staff are aware that the transition process has caused some concern among industry members surrounding the ability of former authorized officials who transitioned to the salesperson category to register as either a broker or associate broker in the future. In addition, some have expressed concern about the fact that the process may have potentially left some brokerages with members of their management team registered as salespeople because these individuals were not registered in a management capacity under REBA.

Commission staff are sensitive to these concerns and this notice addresses staff’s approach to each of these issues.

Former authorized officials’ whose registrations transitioned to the salesperson category may apply for registration at a management level (i.e. as a broker or associate broker) as long as:

1. It has not been more than 36 months since they completed the broker's course or;
2. It has not been more than 36 months since they were registered with the Commission in a management capacity and they remained continuously registered.

A former authorized official who does not meet these criteria, but who remains continuously registered as a salesperson, may qualify for registration at a management level again by completing the broker challenge course (an abridged version of the broker course) instead of retaking the full broker course.

The considerations outlined above reflect policies that were in place under REBA whereby a person who completed the broker course, but did not become registered at a management level within the prescribed timeframe, needed to complete the broker challenge course should they wish to register to manage a brokerage or a branch office.

In the case where a brokerage has had members of their management team transitioned to the salesperson category, and the brokerage wishes to have a former authorized official reappointed as an associate broker, the brokerage will have to submit a written request for consideration by the registrar to have the individual in question reappointed. The request will have to include the reason(s) why the individual was not registered in a management capacity under REBA and specific details as to the management duties undertaken by the individual. These details will have to include what exactly the individual does in a management capacity, how often they engage in the duties, and for how long they have been acting in that capacity.

Any request received from a brokerage must be for an individual who is actively engaged in managing the brokerage in a substantial manner and is responsible for the activities of the brokerage and the registrants engaged by it. In Commission staff's view, managing a brokerage would include tasks such as involvement in reviewing statutory contracts (e.g. service agreements and offers to purchase), handling trust money and accounting, management of registrants engaged by the brokerage, and handling compliance related matters.

Any submission made by a brokerage constitutes a statement of fact under RESA and failure to portray an individual's involvement in managing a brokerage accurately would qualify as professional misconduct by a registrant. This being the case brokerages are encouraged to ensure that any made submission is accurate and reflects an individual's actual involvement in managing the brokerage.

Questions concerning the status of former authorized officials and the transition under RESA may be sent to realestate@gov.mb.ca.



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The Real Estate Services Act