

JULY 2022

Summary of Consultation Feedback

Real Estate Teams

BCFSA 

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1. Introduction

In February 2022, BC Financial Services Authority (“BCFSA”) undertook a public consultation on proposed amendments to the Real Estate Services Rules (“Rules”), as required under the Financial Services Authority Rule-Making Procedure Regulation.

The proposed amendments are intended to strengthen the regulatory framework for real estate teams (“teams”) by:

- defining a team;
- requiring all teams to register with BCFSA;
- specifying that team members must provide trading services through their team only; and
- requiring team members to clearly identify their team name in all advertising.

This report provides a summary of the feedback received during the public consultation.

For further information on the proposed amendments see the [Real Estate Services Rules Amendments](#) consultation page on BCFSA’s website.



2. Consultation Process Overview

The consultation was open for public comment from February 23 to April 24, 2022. The primary source of feedback came from BCFSA's online feedback form, although email submissions were also accepted and considered.

Participants were invited to share their opinions on the draft amendments, including team administrative penalties, team advertising, team registration, team restrictions and requirements, and enforcement timing of the proposed Rules.

To support informed participation and raise awareness, BCFSA shared information and resources with stakeholders in advance and throughout the consultation period

Some of the engagement activities BCFSA undertook included the following:

- Notified licensees of the opening of the consultation period via an email Advisory;
- Published a news release inviting the public and licensees to participate in the consultation;
- Invited feedback from key industry associations such as British Columbia Real Estate Association, local real estate boards, the Professional Association of Managing Agents, Strata Property Agents of BC, Landlord BC, and the Real Estate Brokers Association of BC;
- Published a consultation webpage with a variety of resources explaining the proposed Rules and their anticipated effects including:

[Annotated Rules](#),

[Frequently Asked Questions for Licensees](#),

[Frequently Asked Questions](#) for Consumers, and

Consultation Feedback Form;

- Sent regular participation reminders to licensees via email, newsletter articles, and social media;
- Hosted a webinar for managing brokers to provide information about the proposed amendments; and
- Participated in a webinar organised by the Real Estate Broker's Association of BC to discuss the proposed Rules.

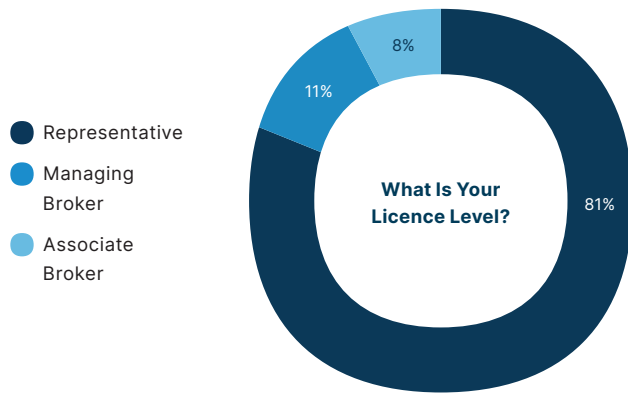
3. Summary of Feedback: What We Heard

A total of 1,252 people participated in the consultation by responding to the feedback form. Of those individuals, 590 chose to provide comments on the form. These comments were reviewed and considered by BCFSa and formed the basis of the themes outlined in table 1 on page 6.

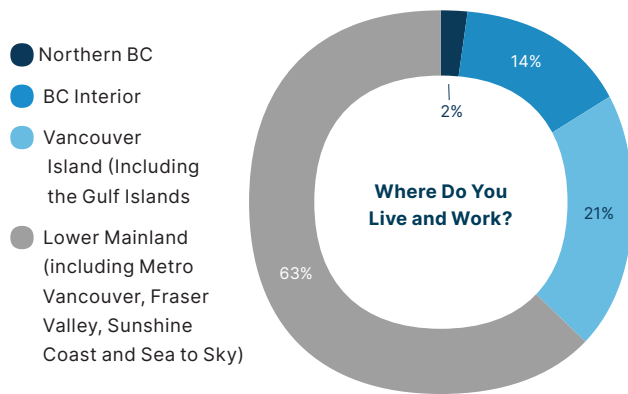
BCFSa also received three written responses submitted by email, including two submissions from industry associations.

Licensees made up the majority of respondents (97.8%), which included managing brokers (11%), associate brokers (8%), and representatives (81%) from all areas of B.C.

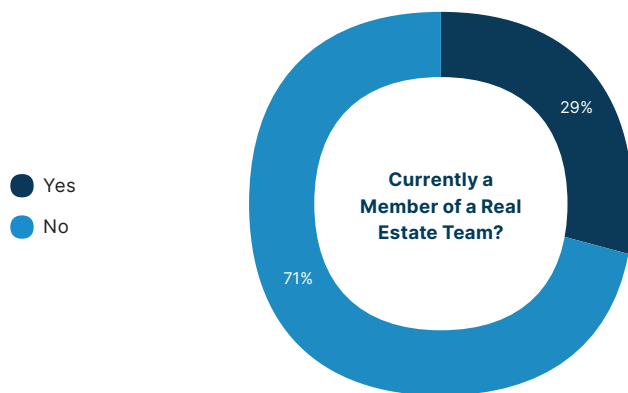




**FIGURE 1
LICENCE LEVELS OF RESPONDENTS**



**FIGURE 2
AREAS OF THE PROVINCE WHERE RESPONDENTS LIVE AND WORK**



**FIGURE 3
NUMBER OF RESPONDENTS WHO ARE CURRENTLY MEMBERS OF A REAL ESTATE TEAM**

A total of 343 respondents (29%) indicated that they are currently a member of a team.

Overall, there was general support for the proposed Rules. The following table summarizes the key themes from the feedback received during the consultation.

Table 1: Key Themes From Feedback

Theme	Summary of Issue/Comment	BCFSA Response
Team size	A large number of respondents requested an additional restriction be added to the proposed Rules that would limit the size of teams	<p>The proposed Rules seek to clarify and formalize <i>existing</i> requirements and practices. While comments and suggestions related to significant new requirements for teams (e.g., limits on team size) are out of scope, BCFSA appreciates additional feedback and may consider further requirements for teams at a later date.</p> <p>Managing brokers can create their own brokerage policies limiting team size.</p> <p>Licensees should be mindful that as a team's size increases, so does the potential for conflicts of interest. As fiduciaries, licensees have a duty to their clients to take reasonable steps to avoid foreseeable conflicts of interest and to fully and promptly disclose them when they arise.</p>
Training and education	Many respondents expressed interest in having BCFSA publish more education and training resources for licensees on the proposed Rules.	<p>As part of the consultation, BCFSA provided information for both consumers and licensees to help increase general understanding of the proposed Rules and their impacts. The materials included an overview of the changes, annotated draft Rules, frequently asked questions, etc.</p> <p>If the Minister consents to the proposed Rules, BCFSA intends to publish additional resources, such as updated guidelines and regulatory information, additional frequently asked questions, and registration training.</p>
Agency and teams	<p>Some respondents disagreed with the requirement that the related brokerage must designate all members of the team as designated agents of a client.</p> <p>These respondents indicated that team members should be able to separate their duties to clients from other team members and work outside of the team when desired.</p>	<p>The express purpose of a team is to provide collective real estate services to clients. Long-standing regulatory practice considers all team members to be collectively the designated agent of all the team's clients.</p> <p>Many of the comments related to team members' agency duties demonstrated a fundamental misunderstanding of how agency is formed, and the duties agents owe to their clients.</p> <p>BCFSA offers a variety of resources for licensees to inform themselves of their agency and fiduciary duties to clients, including when acting as a member of a team. The resources include continuing education courses, Knowledge Base guidelines and videos, and informational articles in newsletters.</p>
Team and brokerage confusion	<p>Respondents voiced concern around existing team practices respecting advertising, team naming, and managing broker oversight.</p> <p>Examples were provided of licensees and members of the public being confused about the differences between a team and a brokerage due to misleading advertising, as well as instances where teams were acting like "de facto" brokerages with limited managing broker supervision.</p>	<p>The proposed Rules and related changes are designed to address many of these concerns. For example, the proposed Rules would require teams and their members to include their team name (and brokerage name) in any advertising.</p> <p>Furthermore, licensees wishing to create or join a team will need to obtain their managing broker's approval before the application is sent to BCFSA for final approval, ensuring more consistent oversight of teams by managing brokers.</p>

Table 1: Key Themes From Feedback

Theme	Summary of Issue/Comment	BCFSA Response
Commercial real estate brokerages	<p>A concern was raised about how the proposed Rules apply to the business practices of brokerages that specialize in commercial real estate.</p> <p>Respondents desired an exemption to the proposed Rules that would allow team members to provide trading services to a client without having to include their whole team under certain conditions.</p> <p>Some respondents also felt that brokerages focusing on commercial real estate should be exempted from the proposed Rules altogether.</p>	<p>The <i>Real Estate Services Act</i> and the Rules do not distinguish between commercial and residential real estate transactions. Differentiating commercial and residential trading services in the real estate regulatory framework would represent a major shift in how real estate is regulated in B.C.</p> <p>While BCFSA understands the desire for licensees to temporarily work outside of their team for certain transactions, it is confusing for other licensees and members of the public who may struggle to identify which members of a team owe fiduciary duties. The proposed Rules provide clarity in representation and ensures that team members do not hop on and off a team to circumvent regulatory requirements.</p>
Requirement to register	<p>Some respondents criticized the broad language in the proposed Rules related to team registration requirements while other respondents opposed team registration altogether. These respondents expressed a desire for more clarity regarding the team registration requirements in various scenarios.</p>	<p>The broad language in the proposed Rules regarding registration reflects the various ways in which teams and team members can represent themselves to the public and establish agency with consumers.</p> <p>The proposed requirement for all teams to register will better enable BCFSA to ensure that teams are operating in a consistent and appropriate manner. BCFSA has designed the requirement to register so it captures licensees who advertise as a team, as well as licensees who are working together on a regular basis in a manner that would lead a party to believe that the licensees are acting as their agent.</p> <p>The proposed Rules will help consumers recognize when they are working with a team and understand the representation that is being provided. They will also provide BCFSA with more relevant and accurate teams-based data.</p> <p>BCFSA will be updating its guidelines to help licensees understand the registration requirements.</p>
Red tape	<p>Some respondents voiced their general disapproval of the proposed Rules, believing that BCFSA is over-regulating and introducing too much red tape that will impact licensees' ability to provide real estate services.</p>	<p>BCFSA's proposed Rules generally reflect long-standing practices in relation to the regulation of teams. Enshrining existing practice into rules is intended to help BCFSA enforce its existing requirements and improve its understanding of teams and team practices through improved data collection. The rules are also intended to enhance managing broker oversight of teams and to address licensee and consumer confusion on how teams operate.</p> <p>BCFSA offers a variety of resources to help licensees understand the expected standards of conduct and business practices, including when acting as a member of a team. These include continuing education courses, Knowledge Base guidelines and videos, and informational articles in newsletters.</p>

4. Consultation Outcomes and Next Steps

BCFSA thanks those who took the time to participate in the consultation. The feedback received was broad and ranged considerably, and while some respondents were critical of certain aspects of the proposed Rules, most respondents were in favour of the changes. This feedback is consistent with BCFSA's past consultations on real estate teams.

BCFSA reviewed and considered all the responses it received and has determined that no additional changes will be made to the proposed Rules at this time. Moving forward, BCFSA will seek the Minister of Finance's consent to make the new Rules.

If the Minister consents to the proposed Rules, BCFSA intends to bring the Rules into force on April 1, 2023. This extended enforcement date is intended to provide licensees with time to understand the changes and to adjust their business practices and advertising so they are in compliance with the Rules when they are brought into force. BCFSA will provide additional guidance and education on the proposed Rules to support implementation.

BCFSA will post a news release and advisory informing the public, licensees, and the media of the Minister's decision.





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