

Unless otherwise dictated by context and for ease of reading, the term AGENCY in this document includes REAL ESTATE AGENCY, MORTGAGE AGENCY and SUB-FRANCHISEE acting as a full-fledged agency. The term BROKER ACTING ON HIS OWN ACCOUNT includes all fields of practice (residential, commercial and mortgage).

**IMPORTANT :**

***A broker or agency must keep and maintain the records and registers prescribed by law. Where a broker acts for an agency, these obligations are delegated to the agency. The broker must send all the information required for that purpose to the agency without delay.***

## **BROKERAGES RECORDS AND REGISTERS**

A broker or agency must maintain six types of registers and five types of records at their establishment.

**REGISTERS:**

1. A register of brokerage contracts
2. A register of transactions
3. A register of sums held in trust
4. A register of disclosure notices
5. An accounting register
6. A register of brokers acting for the agency (not required for brokers acting on their own account)

**RECORDS:**

1. A record for each brokerage contract
2. A record for each transaction
3. A record for all transactions not accepted
4. A record for all disclosure notices
5. A record for all corporations within which brokers acting for the agency carry out their activities, if applicable

### **1. REGISTER OF BROKERAGE CONTRACTS AND BROKERAGE CONTRACT RECORD**

**Content of register of brokerage contracts**

The register of brokerage contracts is a compilation or inventory of all the contracts entered into by the brokers representing an agency, or by a broker acting on his own account.

Examples:

- Residential brokerage: mandatory brokerage contracts (less than 5 dwellings, co-ownership, etc.) or recommended brokerage contracts (lease, purchase)
- Commercial brokerage: "homemade" brokerage contracts, letters of intent, etc.
- Mortgage brokerage: mortgage brokerage contracts

**Information required**

- Distinct number from a series of consecutive numbers assigned by the agency or the broker acting on his own account;
- Date of signing of the brokerage contract (for a brokerage contract being transferred, the date of transfer to the agency);
- Name of the broker acting for the agency to whom the contract was awarded;
- Address of the immovable or enterprise covered by the contract (purchase, sale, lease or exchange) or cadastral description (e.g. vacant lot with no street address);

- Other items specific to your practice can of course also be included.



*In accordance with section 3 of the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies*

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REGISTER OF BROKERAGE CONTRACTS

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Type of record to create

The following documents must also be filed in the brokerage contract record **as soon as a transaction takes places (residential or commercial, sale or lease):**

- For mortgage brokerage, the document to be filed in the record is the lender's refusal.

## 2. REGISTER OF TRANSACTIONS AND TRANSACTION RECORD

### Content of register of transactions:

The register of transactions is a compilation or inventory of every transaction proposal that was accepted, whether or not the conditions were fulfilled.

Examples:

- Residential brokerage: transaction promises, mortgage referrals, etc.
- Commercial brokerage: transaction proposals, leases, etc.
- Mortgage brokerage: mortgage applications, approvals, etc.

### Minimum information required by regulation

- Distinct number from a series of consecutive numbers assigned by the agency or broker (different from the number used in the register of brokerage contracts);
- Date of acceptance of transaction proposal (for mortgage brokerage, indicate the mortgage approval date);
- Sum received in trust with the transaction proposal;
- Address of the immovable or enterprise covered by the transaction proposal (sale, lease, exchange or loan secured by immovable hypothec) or cadastral description (e.g. vacant lot with no street address);
- Name of the broker who drafted the transaction proposal or who acted as intermediary for the loan secured by immovable hypothec;
- Name and licence number of the agency or the broker acting on his own account with whom the agency's or broker's remuneration is shared.

Other items specific to your practice can of course also be included.

Examples:

- Residential and commercial brokerage: mortgage referral is a brokerage act and, as such, is considered a transaction. In the register of transactions, a consecutive number is assigned to the referral record upon receipt of the cheque from the financial institution, and the corresponding address is entered. There is no problem in identifying it as a referral by using a specific abbreviation in the record number (e.g. MR – 101), or in indicating it after the address (e.g. 22430 High St., Urban City (mort. ref.))
- Mortgage brokerage (residential): where an agency or broker does not use Filogix-Expert, the same number is used in the register of brokerage contracts and in the register of transactions due to this particular method. In the case of a refused loan application, a number is also generated in the register of transactions and you must specify that it is a REFUSED LOAN. However, if a broker uses Filogix-Expert, except for the Sum received in trust field, this system meets the regulations concerning the register of brokerage contracts and the register of transactions. If a sum is received in trust, this information must be entered in your registers.
- Mortgage brokerage (commercial brokerage): Many weeks and sometimes even months can elapse between the signing of the contract and the loan approval. A consecutive number is assigned as loans are approved by the institutions concerned. It is therefore necessary for agencies and brokers carrying out their activities in this particular field of brokerage to have one numbering system for mortgage brokerage contracts (Register of brokerage contracts) and another one for records in which loans have been granted.





#### 4. REGISTER OF DISCLOSURE NOTICES

##### Requirements and content of register of disclosure notices

This register contains all disclosure notices completed by the brokers representing an agency or by brokers acting on their own account in the following situations:

- A. For transactions in which they were directly or indirectly involved, whether or not in the performance of their duties, and
- B. Where the agency or the brokers acted as mortgage lender.

##### Information required

- A consecutive number assigned to each disclosure notice;
- Name and licence number of broker who completed the notice;
- Object of the transaction, i.e. address of the property and number entered in the register of transactions;
- Nature of the transaction: purchase, sale, exchange or loan secured by immovable hypothec;
- Nature of the direct or indirect interest;
- Accepted sale price or amount of mortgage loan granted, as applicable;
- Names of the buyers and sellers (or sellers or borrowers, as applicable);
- Date and time of drafting of the transaction proposal;
- Date and time of acceptance of the transaction proposal;
- Date and time of receipt of the notice by each prospective contracting party.

Examples:

- Direct interest: broker buying or selling his own property.
- Indirect interest: broker representing his parents or children in the purchase or sale of their property, or buying or selling a property through a company in which he is a shareholder.
- Mortgage lender: broker using his own money to extend a loan secured by immovable hypothec.

IDENTITY OF THE REAL ESTATE OR MORTGAGE AGENCY  
OR REAL ESTATE OR MORTGAGE BROKER (acting on his own account): \_\_\_\_\_

Licence No. \_\_\_\_\_

Consecutive number attributed by the licence holder to the disclosure notice	Licence holder producing the notice		Nature of interest of licence holder		Object of the transaction		Nature of transaction			Sale price accepted or Loan amount granted (if agency or broker is the lender)	Name of buyer(s) or Name of borrower(s)	Name of seller(s) or Name of lender(s)	Transaction proposal		
	Licence No.	Name			Transaction No.	Address of property or enterprise	Sale	Purchase	Exchange				Loan secured by immovable hypothec	Date and time of drafting	Date and time of acceptance
			Direct	Indirect											
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Note: You must send a copy of your register to the OACIQ before March 31 of each year.

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REGISTER OF DISCLOSURE NOTICES

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## Type of record to create

A single file containing all disclosure notices completed by brokers throughout the year. During inspection visits, the inspector will validate the content of this record against the register of disclosure notices.

Example:

- If there are four entries in the register of disclosure notices, there should have been four disclosure notices issued to prospective contracting parties as part of transaction proposals.

## 5. ACCOUNTING REGISTER OF AGENCY OR BROKER ACTING ON HIS OWN ACCOUNT

### Requirements

Agencies and brokers are required to maintain an accounting system of their company's operations according to generally accepted accounting principles. The choice of system is left to their discretion. The agency's or the broker's operating accounts are systematically verified during inspection visits (see article no. 12182 – [Professional Inspection also verifies a broker's operating accounts](#)).

### Detail

- "Turnkey" systems are available on the market and integrate register management as required by regulation as well as the agency's general accounting functions (invoicing, government remittances, statements, etc.)

## 6. REGISTER OF BROKERS ACTING FOR THE AGENCY

### Requirements and content of register of brokers acting for the agency

This obligation is only for agencies, since a broker acting on his own account cannot have other brokers representing him. This register is simply a complete and current list of the names and licence numbers of all brokers representing the agency, and, if applicable, a mention to the effect that they carry out their activities within a corporation.

### Information required

- Name of the broker representing the agency;
- Broker's licence number;
- If applicable, a mention to the effect that the broker is carrying out his activities within a business corporation.



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### REGISTER OF BROKERS

In accordance with section 9 of the Regulation  
respecting records, books and registers, trust  
accounting and inspection of brokers and agencies

REQUIRED BY REGULATION			OPTIONAL FOR USE BY AGENCY			
Name	Licence No.	Broker exercising his or her activities within a business corporation	Starting date with agency	Telephone (home)	Telephone (cell.)	E-mail (personal)
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### **Type of record to create**

One record for all business corporations held by brokers acting for the agency containing:

1. A current statement of registration on each of the corporations within which the brokers acting for the agency carry out their activities, as published in the Registre des entreprises and, for any company incorporated other than under the laws of Québec, written confirmation of the company's existence from a competent authority;
2. If the broker is not the sole shareholder of the corporation within which he operates, current information including the names of all company shareholders and, for each, the percentage of voting rights and dividend entitlement attached to the shares they hold;
3. The contract between the corporation, represented by the broker, and the agency.

Example:

- Three brokers in your agency wish to have their remuneration paid to their corporations. First, you must validate the existence of these three corporations and ask that the brokers concerned provide all the documentation needed to create your record. A contract must be signed between the company thus incorporated and the agency. All this information must be kept in a record for this purpose, which must be made available for inspection. The inspector will need to validate all these elements during each inspection visit.

Only one record does not need to be entered into a register:

### **RECORD OF ALL TRANSACTION PROPOSALS NOT ACCEPTED**

#### **Type of record to create**

A record containing all transaction proposals that were not accepted where the broker acted as the buyer's broker (without a brokerage contract to purchase).

Examples:

- A broker from the ABC Agency submits a transaction proposal (purchase, lease, exchange) to the listing broker from the 123 Agency. This proposal is REFUSED outright or receives no reply. The broker from the ABC Agency must report this proposal to his agency, which will file it in a record that could be labeled "REFUSED PROPOSALS - 20XX. The broker from the 123 Agency will also have to report this proposal to his agency, which will file it in its record of listings (see article no. 118874 – [Refused transaction promises • A reminder on broker and agency obligations](#)).

### **Note to mortgage agencies and brokers**

This situation is unlikely to occur since mortgage brokerage agencies and brokers handle their own records and do not interact.

## CONSERVATION, USE AND DESTRUCTION OF RECORDS AND REGISTERS

### Requirements

All necessary measures must be taken to prevent the loss or destruction of records and registers and prevent falsification of the information and documents contained therein. Every reasonable means must also be taken to prevent an employee or any person authorized to act on behalf of the agency or the broker from disclosing any personal information obtained in the course of their activities. Office equipment and records and registers must be set up in a way that will protect the confidentiality of the documents or information they contain.

Examples:

- When paper records and registers are kept, the use of locked metal filing cabinets should be the norm. (Fireproof metal filing cabinets are recommended.)
- Avoid storing documents where there is a flood risk (basement), or else store them in watertight containers.
- Access to filing cabinets should be limited and controlled by a responsible person to prevent breaches of confidentiality.

Records and registers must be kept for six years following their final closing. After this period, they may be destroyed in a way that will protect the confidential nature of the information.

Final closing for:

- A. Brokerage contracts: contract expiration date
- B. Transaction proposals: date of notarized contract
- C. Records involved in disputes (civil, penal, disciplinary or criminal actions): must be kept longer, until final judgement and after the appeals deadline

Destruction can be done using a shredder or through a specialized firm. Refer to the various articles published to date on our website concerning the precautions you should take to protect the confidentiality of documents being destroyed. These articles are: [Broker's records, books and registers: What to do in case of disaster \(fire, flood\)](#) (article no. 9222), [Document before you destroy!](#) (article no. 18583), [Closing an establishment and ceasing the activity of real estate broker according to good trade practices](#) (article no. 6219).

All registers described above, without exception, may be maintained using an electronic medium (Access, Excel, Word or other), or manual medium (paper). They are considered compliant as long as each register contains the mandatory fields as per the regulations.

A sample of each of the registers described herein is also available on the OACIQ website.

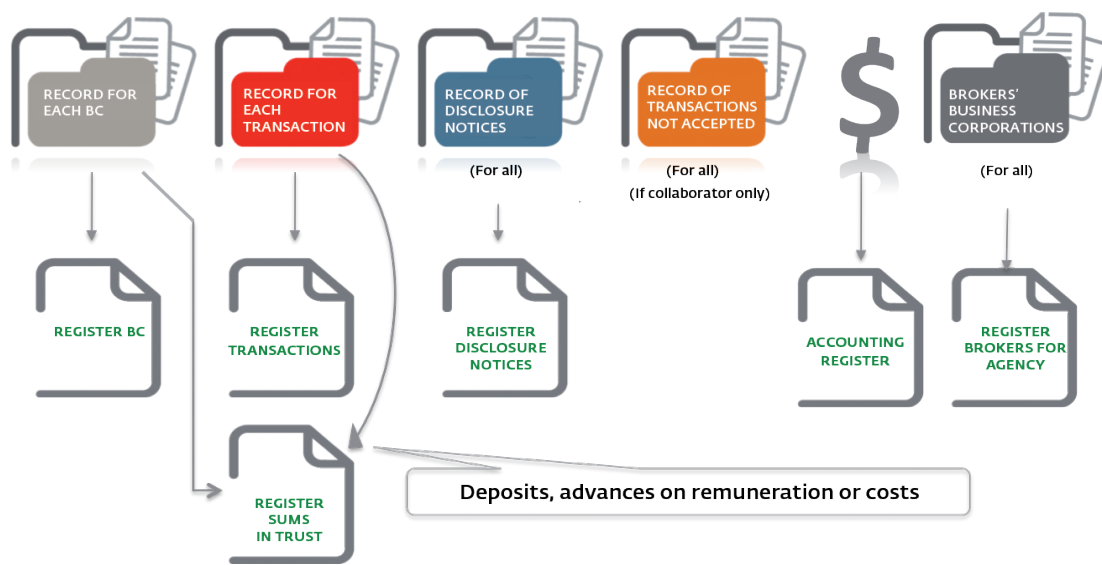
## CESSATION OF THE ACTIVITIES OF THE AGENCY OR BROKER

### Requirements

Agencies or brokers who cease their activities must turn over their records and registers, other than those relating to their company's accounting, to a broker acting on his own account or an agency that holds the licence(s) necessary to maintain such records and registers. A broker or agency receiving those records and registers is under the same obligations regarding the conservation, use and destruction thereof as regarding their own. The broker or agency transferring the documents must inform the OACIQ of the location where these records will be kept, and the broker or agency receiving them must acknowledge receipt thereof and notify the OACIQ. A form entitled "Notice of location where records and registers will be preserved when a real estate or mortgage agency or a real estate or mortgage broker acting on his own account ceases activities" is available on the OACIQ website under [Resources/Inspection/Inspection Forms](#).

## EDUCATION ACTIVITIES

Specific education sessions are available on *The Keeping of Records and Registers and Managing Trust Account*. CEUs (Continuing Education Units) are issued to brokers who attend, and certificates of attendance are issued to agency personnel. Refer to the [training calendar](#) on the OACIQ website for session dates. Review the regulations regularly, visit the website for articles on the keeping of records and registers and on the practice of real estate brokerage in general, and subscribe to the *pro@active* newsletter. Make them your go-to reference tools.



## CONSERVATION OF RECORDS AND REGISTERS ON ELECTRONIC MEDIUM

### Basic rules

**Important note:** All real estate brokerage records and registers may be kept on electronic medium. However, before you destroy any records and other paper documents, be sure to read the following.

To maintain records and registers on electronic medium, the agency or the broker acting on his own account must follow certain rules pertaining to:

1. Integrity (digitization)
2. Security (conservation)
3. Perennity (time interval)
4. Confidentiality (system access)

### Integrity

This means that the documents cannot be accidentally altered and their conservation medium is stable.

Document integrity starts with digitization (transferring a source document, usually in hard copy form, to an electronic medium). This transfer must be documented.

The agency or the broker acting on his own account is responsible for documenting the digitization process. If the broker or agency uses digitization software, the system will generate a digitization log. (See section below on *How should the transfer process be documented?*)

### How should a document be digitized

For a paper document to be destroyed and the digitized version to retain its legal value, the digitization process must meet the requirements of the Act to establish a legal framework for information technology. The process used to do this must be documented to guarantee and maintain the integrity of the documents and preserve their legal value. The process must show that:

- The digitized document contains the same information as the original paper document;
- The medium chosen (including the type of file, resolution, and EDM system, if applicable) must provide stability and the required perennity of the digitized document.

## How should the transfer process be documented

The documentation must include:

- A reference to the original document format (usually, paper);
- The transfer process used, i.e. a complete description of the equipment used and of the transfer process (by whom, when and how documents were digitized);
- Quality and quantity control methods.

This documentation (process or log) must be retained throughout the life cycle of the document resulting from the digitization.

*NOTE: The OACIQ recognizes the digitization parameters recommended by Bibliothèque et Archives Nationale du Québec (BANQ), i.e. 300 DPI image resolution.*

Sample digitization log

DIGITIZED BY	DIGITIZATION DATE	RESOLUTION	LIST OF DIGITIZED DOCUMENTS	SOURCE DOCUMENT
		300 DPI minimum		Usually paper

*IMPORTANT NOTE: If digitization is done by brokers, the agency must also keep a list of the equipment used by its brokers and issue and enforce a detailed written procedure.*

## Without a digitization process or digitization log, no paper document or record can be destroyed.

Digitized records should be easy to view and verify. The agency or the broker acting on his own account must follow a strict order and the documents and files must be named according to a standardized system (i.e. always the same way), and properly filed.

Example: Brokerage contracts, promises to purchase, municipal tax accounts could be named thus: BC11111, PP22222, Mun. Tx 2010, Mun. Tx 2011. It is also possible to create sub-directories for same-type documents, e.g. a Mun. Tx sub-directory containing all municipal tax accounts for the immovable.

For more information on digitization, read the following articles, available on the OACIQ website at [www.oaciq.com](http://www.oaciq.com):

1. [Document before your destroy!](#) (article no. 18583)
2. [Electronic document management: Digitization, give it more importance](#) (article no. 119357)

## SECURITY (BACKUP AND CONSERVATION)

Regular system backups are essential. The frequency and type of backup are determined by the number of files (documents) requiring protection.

Backup copies must be kept in a remote location from the source information, in a secure place that is protected from weather damage and other sources of deterioration.

Example: Bank safety deposit box.

The OACIQ recommends the following media:

- External local or network hard drive (protected access);
- Backup sent to company specializing in data backup (backups may not be kept outside Canada);
- Tape backup.

## PERENNITY

Like paper documents, records and registers maintained on electronic media must be kept for a period of six years from their final closing. After this period, they may be destroyed, unless involved in civil, penal, disciplinary or criminal actions.

To prevent a broker acting on his own account or an agency from inadvertently destroying a record that should have been kept for a longer period, it is recommended to create a conservation schedule.

Example:

- A digitized record with a related sum deposited in trust still in the trust account may not be destroyed.
- The broker acting on his own account or agency executive officer must validate the destruction of all records beforehand.

**Important note:** It is imperative that a complete system backup be done prior to destroying any documents and paper records.

## CONFIDENTIALITY

The agency or the broker acting on his own account must protect the confidential information in his care. Access to the system must be restricted to authorized personnel.

Example: A person who does not have authorized access to paper records must not be able to access digitized documents or records.

- Records or documents must not be kept on a USB key, an external drive or any other unprotected medium.
- If a broker or an employee with access to digitized documents and records leaves the agency, access rights must be immediately revoked.

## For more information

1. Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies, R.R.Q., c. C-73.2, r.4
2. An Act to establish a legal framework for information technology, especially section IV. <http://www.canlii.org/en/qc/laws/stat/rsq-c-c-1.1/latest/rsq-c-c-1.1.html>
3. *La numérisation des documents administratifs, Méthodes et recommandations de Bibliothèque et archives nationales du Québec*: see points 1.2., 1.3. and 1.4, among others. [http://www.banq.qc.ca/documents/services/archivistique\\_ged/Numerisation\\_des\\_documents\\_administratifs\\_Methodes\\_et\\_recommandations\\_v2.pdf](http://www.banq.qc.ca/documents/services/archivistique_ged/Numerisation_des_documents_administratifs_Methodes_et_recommandations_v2.pdf)
4. An Act respecting the protection of personal information in the private sector, R.S.Q., c. C-1.1