

## Financial benefits

**This bulletin explains the requirements related to direct and indirect financial benefits that must be disclosed to clients.**

### Summary

A real estate agent must disclose to their client all direct and indirect financial benefits the agent, or that a person “related” to the agent, might receive in connection with the services provided to a client. The requirement applies as soon as the agent knows, or ought to know, that a financial benefit might be received.

An agent must:

1. Disclose the financial benefit to the agent’s client.
2. Make best efforts to obtain the client’s acknowledgement that the disclosure was received.
3. If the client makes the acknowledgement, provide a copy to the client.

An agent is prohibited from receiving payment directly from any source other than the brokerage where they are employed. Brokerages may have their own policies and rules regarding the receipt of a financial benefit that agents are expected to follow.

### What is a financial benefit?

A financial benefit is a benefit received in addition to the remuneration paid by the client under their representation agreement. It is a benefit the agent knows or ought to know that they or a person related to them will receive from another person in connection with services provided by the agent to a client.

What form the financial benefit takes is not what matters, but rather the fact of receiving the benefit. The financial benefit might be payment (cash or other), a gift, tickets to an event, or any other type of compensation, such as an offer to provide a future service to the agent or to a person related to the agent.

#### **WHEN MUST AN AGENT DISCLOSE A FINANCIAL BENEFIT?**

An agent must disclose to the client as soon as possible after the agent knows or ought to know they may, or a person related to them may, receive a payment or a service from a third party.

Examples of a third party include, but are not limited to:

- Home inspector
- Appraiser
- Lawyer
- Mortgage Broker or Lender
- Moving Company

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### STEP 1: DISCLOSURE OF FINANCIAL BENEFIT

If an agent knows or ought to know of a direct or indirect financial benefit that the agent, or a person related to the agent, might receive from another person in connection with services provided to a client, the agent must disclose this to the client.

The disclosure must be made as soon as possible after the agent knows, or ought to know, of the financial benefit. The disclosure is not tied to receipt of the benefit, but to the possibility it might be received.

**The disclosure must answer the following questions:**

#### What is the financial benefit?

The description of the financial benefit must include:

- An estimate of the value of the benefit or the dollar amount that might be received;
- A description of any conditions under which the financial benefit might be received; and
- An indication whether the financial benefit is direct or indirect.

#### Who might be receiving the financial benefit?

The disclosure must indicate whether it is the agent, or a person related to the agent who might receive the benefit.

#### How is the agent related to the person who might receive the benefit?

If a person related to the agent is receiving the benefit, the disclosure must include a description of the relationship between the agent and the related person.

A person is **related** to an agent if:

- the person is a *spouse* of the agent;
- the person is a *child* of the agent;
- the agent is a *child* of the person;
- the person is a relative by blood, marriage, or adoption of the agent or the agent's *spouse* or *child*; or
- the agent is associated with the other person within the meaning of subsection 1 (2) of TRESA.

#### What is the relationship between the parties?

The disclosure must include a description of the relationship between the person who might provide the financial benefit and the agent or, where applicable, the person related to the agent.

### STEP 2: ACKNOWLEDGEMENT OF DISCLOSURE

Agents must make best efforts to obtain a written acknowledgement from each person receiving the financial benefit disclosure, indicating that the disclosure was received.

### STEP 3: COPY OF THE ACKNOWLEDGEMENT

If a person makes the acknowledgement, the agent must provide the person with a copy of the acknowledgement.

## Financial benefits and conflicts of interests

The possibility of receiving a financial benefit in respect of a trade involving a client may give rise to a conflict of interest, which would lead to other disclosure obligations.

Any financial benefit arrangement that might lead an agent to place their own interests or those of a related person, before the interests of their client, should be avoided.

## When there is more than one agreement in respect of the same trade

The financial benefits disclosure obligation includes a situation where the brokerage is to receive remuneration under an agreement made with a third party who is not the client, in respect of the same trade.

In a situation where the buyer is the agent's client and the seller has offered to pay all or part of the buyer's brokerage fees, the terms of that agreement must be disclosed to the agent's buyer client.

In a situation where the seller and the buyer are both clients of the brokerage, in the same trade, the brokerage must disclose the remuneration terms in the buyer's representation agreement and in the seller's listing agreement to both parties.

The brokerage is prohibited from charging or collecting remuneration under more than one agreement for the same trade unless the required disclosure is made to both of the affected parties.

## Related information

Bulletin No. 3.1 Disclosures, consents, and acknowledgements

Bulletin No. 3.5 Conflicts of Interest