

FORM 2 — TRUST COMPLIANCE REPORT

The Mortgage Brokers Act

GENERAL INSTRUCTIONS:

1. The *Trust Compliance Report of Auditor* and Appendix A must be completed by the auditor.
2. Appendix B must be completed by the mortgage broker.
3. Appendices A and B must be filed with the *Trust Compliance Report of Auditor*.
4. Should the space for "Comments" in Appendix A be insufficient, a statement initialled by the auditor may be attached and marked as an exhibit, cross-referencing each statement to the item to which it pertains.

TRUST COMPLIANCE REPORT OF AUDITOR
(Under subsection 29(1) of *The Mortgage Brokers Act*)

TO: The Registrar
The Mortgage Brokers Act

We have examined the trust records of _____
(the "broker") for the year ended _____, 20____ for compliance with sections 21 to 28 of *The Mortgage Brokers Act*. Our examination was made in accordance with generally accepted auditing standards, and included such tests and other procedures as we considered necessary in the circumstances. In the course of our examination, we completed the attached Appendix A.

In our opinion, the broker was in compliance with the accounting and financial reporting requirements in sections 21 to 28 of *The Mortgage Brokers Act*, with the following exceptions:

Name of auditor(s):

Street address

City, province and postal code

Name of contact (for inquiries)

(_____) _____ - _____
Telephone

Signature of auditor / partner of auditing firm

_____, 20____
Date

APPENDIX A
to the
TRUST COMPLIANCE REPORT OF AUDITOR
(Under subsection 29(1) of *The Mortgage Brokers Act*)

_____ Fiscal year from: _____, 20____
Name of Mortgage Broker to: _____, 20____

		YES	NO	COMMENTS
(a)	Is there a proper record of trust receipts which indicates — 1. the date? 2. the receipts in chronological order? 3. from whom received? 4. for whom received? 5. the amounts received?			
(b)	Is there a proper record of trust bank account deposits which indicates — 1. the date? 2. deposits in chronological order? 3. from whom deposited? 4. for whom deposited? 5. the amounts deposited?			
(c)	Is there a proper record of trust cash disbursements which indicates — 1. the date? 2. the disbursements in chronological order? 3. to whom disbursed? 4. for whom disbursed? 5. the cheque number or identification of electronic transfer? 6. the amount?			
(d)	Is there a trust ledger of trust money held which shows — 1. a separate account for each person and for each business matter? 2. particulars (by description or folio reference) of all receipts and disbursements? 3. the balance of each account designated as dr. or cr.?			

		YES	NO	COMMENTS
(e)	Are there procedures in operation to ensure that clients' trust ledger balances and bank reconciliations are recorded each month (no later than the end of the following month) and agree with the respective control accounts in the general ledger?			
(f)	Are there procedures in operation to ensure that reconciliations are prepared each month (no later than the end of the following month) showing reasons for any difference between the total of money on hand and money shown as on deposit according to the broker's record for the mortgage broker's trust account or trust accounts and the trust ledger trial balance?			
(g)	Do the monthly trust ledger trial balances show the clients' names or account numbers?			
(h)	Are transactions posted to the trust ledger in the order of their actual occurrence?			
(i)	Are adequate records maintained showing particulars of those monies invested on behalf of client?			
(j)	Is there a proper record of trust money transferred from one client's account to another client's account and is the appropriate client's authorization on file?			
(k)	Are trust receipts deposited — 1. within the time prescribed by section 10 of the regulation? 2. with a bank as described in section 1 of the regulation? 3. in a bank account in compliance with section 9 of the regulation?			
(l)	If any interest has been earned on trust funds, has it been properly credited to the individual or entity entitled to the money on which it was earned in accordance with section 15 of the regulation?			
(m)	Are trust withdrawals — 1. made by consecutively numbered cheques or properly identified electronic transfers? 2. paid, or made payable to the order of, the person or entity to whom the money is to be paid (i.e. not to a third party unless authorized in writing by the other person)? 3. signed or otherwise authorized by authorized official(s) of the broker?			

		YES	NO	COMMENTS
(n)	Are withdrawals and transfers from the broker's trust account to the broker's general account made in accordance with section 12 of the regulation?			
(o)	Are transfers between the broker's trust account and trustee investment accounts permitted by section 15 of the regulation being recorded in the broker's trust account?			
(p)	Is there a separate trust ledger of trust mortgages and trust assets held by the broker which shows — 1. a separate account for each trust mortgage or trust asset? 2. particulars (by description or folio reference) of receipts and disbursements? 3. the name of each investor who has a fractional interest or percentage of ownership in each trust mortgage or trust asset, and the fractional or percentage of ownership of each such investor? 4. the outstanding balance of each account designated as dr. or cr.?			
(q)	Are written agreements kept and maintained on file by the broker for each person as required by section 21(3) of the Act and section 16 of the regulation?			
(r)	Do the broker's files and records provide evidence that the information and documents referred to in section 23 of the Act and section 27 of the regulation have been provided to each person by the broker?			
(s)	Is there a separate trust agreement on file in the broker's records for each person who has an interest in a trust mortgage or trust asset held by the broker?			
(t)	Are there procedures in place to ensure that all mortgages which are included in the "trust assets" of the broker have been registered and are currently registered in the appropriate land titles office or land registry office?			
(u)	Have any trust mortgages or trust assets been pledged or hypothecated for the broker's own benefit?			
(v)	Is the balance of deposits and money due to clients in trust as at the end of the fiscal year in agreement with the accounting records of the broker?			

		YES	NO	COMMENTS
(w)	Is the money on deposit held in trust for clients held in the broker's trust account of a bank(s) as defined by subsection 22(3) of the Act, and has the amount(s) in the account(s) been verified by personal inspection or by a certificate obtained from the bank(s) in which the account(s) is maintained?			
(x)	Is the money held for clients in the bank trust account(s) not less than the amount of trust money received in respect of which there is an undischarged trust obligation?			
(y)	Are the mortgages and assets held in trust kept separate and distinct from those of the broker, in separate accounts and not mixed with or form part of the general assets of the broker?			
(z)	Has any registered mortgage broker or person associated or affiliated with a mortgage broker been named as a mortgagee under a mortgage or as the transferee or assignee of a mortgage except as provided under section 26 of the Act?			
(aa)	Has the existence and amount of the mortgages and assets been verified on a test basis by personal inspection of the mortgage or title documents or by certificates of registration obtained from the appropriate land titles office or land registry office?			
(bb)	Is the amount of mortgages held by the broker or administered by the broker in trust collectively, and with respect to individual amounts, in accordance with trust agreements entered into under sections 25 and 26 of the Act, and are the mortgages and assets held for clients not less than the undischarged trust obligations under to such trust agreements?			

APPENDIX B
to the
TRUST COMPLIANCE REPORT OF AUDITOR
(Under subsection 29(1) of *The Mortgage Brokers Act*)

TO: The Registrar
The Mortgage Brokers Act

I, _____ (name),

as authorized representative of _____ (the "broker"),

hereby confirm that, to the best of my knowledge and belief,

- a) the books, records and accounts maintained in connection with the business of the broker produced for the auditor(s) fully disclose the trust obligations of the broker and the broker complied with the Act and regulations with respect to trust assets, records and accounts;
- b) the information disclosed in Appendix A is accurate; and
- c) the information disclosed in this Appendix is accurate.

Signed at _____ this _____ day of _____, 20_____.

Signature

Name

Title

STATISTICS RELATING TO TRUST ASSETS
FOR THE FISCAL YEAR ENDING _____, 20__

(a) Summary of mortgages held in the fiscal year

		No. of mortgages	Total amount (\$)
1.	Mortgages held in the broker's name on behalf of other persons at the beginning of the fiscal year		
2.	New mortgages arranged		
3.	Mortgages renewed		
4.	Mortgages foreclosed		
5.	Mortgages matured		
6.	Other: _____		
7.	Mortgages held in the broker's name on behalf of other persons at the end of the fiscal year		

Note: The amount of mortgages shown in item 7 must agree with the mortgage portfolio report in the broker's financial statements for the fiscal year.

(b) Indicate, by province of registration or country of registration (if outside Canada), the total numbers and amounts of mortgages included in item (a)7 above that are registered outside Manitoba:

Province or Country (if outside Canada)	No. of mortgages	Total amount (\$)
1.		
2.		
3.		
TOTALS		

(c) Indicate, by province of registration or country of registration (if outside Canada), the total number of mortgages, and the total unpaid principal balance and arrears, for mortgages included in item (a)7 above that are in arrears:

Name of Province (or Country)	No. of mortgages	Principal balance (\$)	Arrears (\$)
TOTALS			

d) Provide a detailed explanation of all trust funds held at the end of the fiscal year (i.e. whether funds awaiting investment in mortgages, mortgage payments collected by the broker and not remitted to the owners prior to year-end, realty tax payments collected, commission or placement fees, etc.)

Particulars	Amount (\$)

e) Provide the following breakdown of the amount shown as TRUST ASSETS in the financial statements filed by the broker under subsection 30(1) of the Act for the fiscal year:

	Amount (\$)
Cash	
Mortgages (as per item (a)7 above)	
Real property (held as a result of a foreclosure)	
Other: _____	
TOTAL TRUST ASSETS	