

# ALIGN

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## **When Do i use the “DISCLOSURE OF INTEREST IN TRADE”?**

**Q:**

**"I'm representing my daughter and her husband in selling their home and buying another. What disclosures about our relationship are required?"**

**A:**

Think about why you got into real estate. It probably wasn't to sell or buy property for your family – or for yourself, for that matter. But life happens, and eventually, "Mama needs a new house!" And then the fun begins.

Before we get to the specifics of the question, though, it's important to note the legal requirements. Legislated disclosure is governed by the [Real Estate Services Rules](#), which state you must disclose if:

1. the licensee is to directly or indirectly acquire the real estate,

or

2. an associate of the licensee is to directly or indirectly acquire the real estate and the licensee is providing real estate services to the associate.

Additionally, Article 11 of the [REALTOR® Code](#) says, "A REALTOR® shall not buy or sell or attempt to buy or sell an interest in property either directly or indirectly for himself or herself (or) any member of his or her Immediate Family ... without making the REALTOR®'s position known to the buyer or seller in writing."

With those out of the way, let's get back to the question: While your relationship with more distant relatives may not require disclosure under the Real Estate Services Rules, ones with immediate family members – defined as "a spouse, son, daughter, parent, brother or sister" – do. **The good news is there's no form necessary in the case that you're representing your child in selling and buying a home, but a disclosure must be made "in writing" at the earliest convenience and in advance of presenting or receiving an offer.**

But that's not the whole disclosure story. To tell that one, we need to get back to the word "associate" mentioned above. The Real Estate Services Rules define only three associates that would need to be disclosed through a [Disclosure of Interest in Trade form](#): a spouse; a family trust or estate; and a corporation with five per cent or more of its capital or profit entitlement held by the licensee, spouse, or family partner.

So, in the case that you're representing an "associate" or if you'll be on title to help in financing – even as a token 1/100 tenant-in-common – a simple written disclosure won't do. You must complete a Disclosure of Interest in Trade form and present it to the buyer or seller before they enter into any agreement.

Your brokerage doesn't need to approve the form. They merely must acknowledge its receipt when completed. And finally, even if your offer isn't accepted, the Disclosure of Interest in Trade form still must be delivered to your brokerage.