

**TRUST ACCOUNT REPORT**  
(Multi-Lender Transactions) (CalBRE 852)

**NOTE:** This form is used by a loan broker when servicing multi-lender notes and exceeding thresholds of \$125,000 in payments during three months or 120 investors receiving disbursements, to file a trust account report with the CalBRE prepared by an independent accountant.

**GENERAL INFORMATION**

- A broker must file CPA prepared quarterly reports with CalBRE only if they are, or become the servicing agent for multi-lender notes and their servicing volume on multilender loans exceeds \$125,000 in payments due in a three month period or if the number of investors entitled to the payments exceeds 120. See Business and Professions Code Sections 10238(k)(3) and 10238(j)(4).
- This form to be completed by an independent accountant as part of a trust account inspection for multi-lender transactions.
- Read instructions on pages 3 and 4 before completing this report.

**BROKER INFORMATION**

NAME OF BROKER/SERVICING AGENT	TELEPHONE NUMBER
BUSINESS ADDRESS	BROKER LICENSE ID#
CITY, STATE, ZIP CODE	

**REPORT PERIOD**

REPORT PERIOD (CHECK ONE) <input type="checkbox"/> 1ST QUAR. <input type="checkbox"/> 2ND QUAR. <input type="checkbox"/> 3ND QUAR. <input type="checkbox"/> 4TH QUARTER - NON-THRESHOLD BROKER ONLY (See instructions under "Who Must File.")	DATE QUARTER ENDED (M/D/Y)	START OF FISCAL YEAR (M/D/Y)	END OF FISCAL YEAR (M/D/Y)
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**DEPOSITORIES FOR TRUST FUNDS**

List the banks or other financial institutions in which the broker's trust accounts are maintained for transactions subject to B&P Code 10238. If the account is not in the broker's name as trustee, give the account name.

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**LEVEL OF BUSINESS**

To be provided by broker/servicing agent. If the information requested below is not available, so indicate and note the reason under Comments area

Number of notes being serviced ..... \_\_\_\_\_

Aggregate principal amount of such notes ..... \$ \_\_\_\_\_

Aggregate payments due during report period ..... \$ \_\_\_\_\_

Number of persons entitled to such payments ..... \_\_\_\_\_

Number of sales during report period ..... \_\_\_\_\_



**Detach and retain instructions for your use.**

**Instructions**

**T**hese instructions have been prepared as a guide to the independent certified public accountant for the inspection and review report (RE 852) required of certain brokers who conduct transactions pursuant to Business & Professions (BPC) §10238.

Set forth below are the requirements which must be included in the accountant’s comments and certain auditing procedures to be performed in the conduct of the inspection. These instructions set forth the minimum audit procedures and do not restrict the judgment of the independent accountant when circumstances warrant the employment of additional procedures.

**PART I — GENERAL INSTRUCTIONS**

**A. Who Must File**

Pursuant to §§10238(k)(3) and 10238(j)(4), if the broker is or becomes the servicing agent for notes or interests sold, upon which the payments due during any period of three consecutive months in the aggregate exceed one hundred twenty-five thousand dollars (\$125,000) or the number of persons entitled to the payments exceeds 120, the trust account or accounts of that broker or affiliate shall be inspected at no less than threemonth intervals during which the volume is maintained, by an independent certified public accountant. If the broker is required to file an annual report pursuant to BPC §§10238(o) or 10232.2, the quarterly report need not be filed for the last quarter of the broker’s fiscal year.

**B. Independence of Accountant**

The review report includes a representation by the accountant that he or she is independent of the broker. An accountant is not “independent” if the accountant is: employed by the broker; responsible directly or indirectly for the maintenance of the records of the broker; has a financial interest in the business of the broker or an affiliate of the broker; or is an “affiliate” of the broker. (An “affiliate” of a person is a person controlling, controlled by, or under common control with such person.)

**C. Trust Account Liability**

The review should determine the trust fund liability, trust account balance, and any overage or shortage, as of the close of the period (generally the end of broker’s fiscal quarter) for which the report is made. Any deficiency should be noted under the Comments area of RE 852, with such comment as the accountant considers relevant.

**D. Currency of Records**

The trust account records will be considered current if they, and the subsidiary ledgers and control account, are posted on a daily basis and the subsidiary ledgers balanced to the control account at least once each week or in accordance with BPC §10145 and Regulations 2831, 2831.1 & 2831.2. The trust account(s) should be reconciled to the adjusted control account’s balance and the subsidiary ledger balance(s) as of each month’s end by the 15th day of the following month. If the trust account records are not current in accordance with the above, this should be noted with the reason in Comments area of the report and the actual currency of the account indicated.

**E. Examination of Sales Transactions**

1. A “sales transaction” is defined in BPC §10238(j)(5) as “... the series of transactions by which a series of notes of a maker, or the interests in the note of a maker, are sold or issued to their various purchasers under this section, including all receipts and disbursements in that process of funds received from the purchasers or lenders.”
2. BPC §10238(j)(4) specifies that the sample of sales transactions shall be selected at random by the accountant from all such transactions and shall consist of three sales transactions or 5% of the sales transactions, whichever is greater. The independent accountant may restrict the inspection only if the condition of the records or the accounts is so deficient that the accountant under the inspection procedure can not make an adequate review. This action and the basis for it are to be noted in the Comments area of the report.
3. The inspection of sales transactions should emphasize the proper handling of trust funds in accordance with the instructions of the parties to the sale and in accordance with BPC §10238. All funds received by the broker from the purchasers or lenders shall be handled in accordance with BPC §10145 for disbursement to the persons entitled thereto. The broker shall not accept any purchase or loan funds or other consideration from a prospective lender or purchaser, or directly or indirectly cause the funds or other consideration to be deposited in an escrow or trust account, except as to a specific loan or note secured by deed of trust that the broker owns, is authorized to negotiate, or is unconditionally obligated to buy. The books and records of the broker or servicing agent, or both, shall be maintained in a manner that readily identifies transactions under BPC §10237 and the receipt and disbursement of funds in connection with these transactions. The authorization and documentation for all disbursements for the sales inspected shall be verified.

**F. Examination of Payments Processed**

1. BPC §10238(j)(5) defines a “payment,” as the receipt of a payment from the person obligated on the note (or from some other person on behalf of the person so obligated, including the broker or servicing agent) and the distribution of the payment to the persons entitled thereto.
2. BPC §10238(j)(4) specifies that the sample inspected by the accountant shall consist of 10 payments processed or 2% of payments processed under this section during

the period for which the examination is conducted, whichever is greater. The independent accountant may restrict the inspection only if the condition of the records or the accounts is so deficient that the accountant under the inspection procedure can not make an adequate review. This action and the basis for it are to be noted in the Comments area of the report.

3. Payments received should be traced to the bank to determine that they are being immediately deposited to the trust account. Any commingling of trust funds with those of the broker, except as provided for under Regulation 2835, and any use of such funds for any other transaction or purpose other than that for which they are received is prohibited by §10238. In addition, payments received are required to be disbursed within 25 days after receipt by the broker or servicing agent. The broker or servicing agent is also required to notify the lenders or purchasers if the source for any payment is not the maker of the note. The books and records of the broker or servicing agent, or both, shall be maintained in a manner that readily identifies transactions under BPC §10237 and the receipt and disbursement of funds in connection with these transactions.

notes which became due and payable during the report period, including balloon payments (but excluding any prepayment, late or other penalties).

3. The term “sales” means “sales transactions” and is defined in Part I item D above.

*Number of Items Inspected by Accountant*

The accountant should indicate in this item the number of items inspected (sales and payments) and provide, with respect to those items, the information specified.

*Comments*

Deficiencies noted should be briefly described and their location indicated (account number or other identifier employed by the broker).

If corrective action has been taken by the broker with respect to any deficiency, that should also be noted.

If more space is needed, use an attachment labeled “Comments continued.”

**PART II. COMPLETION OF REPORT (RE 852).**

*Broker Information*

Broker’s name and address should appear as it appears in the notice filed by the broker under BPC §10238 along with the broker license identification number. If there has been a subsequent change, the new name should also be indicated.

*Report Quarter*

If the report is for a quarterly period, indicate the closing date of the quarter for which the report is prepared. If for a longer or shorter period than a quarter, indicate the opening and closing dates of the period.

*Depositories for Trust Funds*

List the name and address of each depository in which a trust account is maintained. If the account is not in the broker’s name as trustee, give the account name.

*Level of Business*

This information should be provided by the broker. Information should relate solely to transactions conducted pursuant to BPC §10238 and should not include those conducted pursuant to some other exemption from qualification or pursuant to a qualification under the Corporate Securities Law. If the broker has a qualification, the broker’s attorney will be able to assist the broker and accountant as to the foregoing. Any specified items not available from the records of the broker should be noted in the report along with reason the items were not available.

1. “Number of notes being serviced” is the number being serviced at the end of the period.
2. “Payments due” means those payments, whether or not received, of principal and/or interest on outstanding

**PART III — EXECUTION AND FILING**

1. The accountant should sign the report and furnish the information specified in the Certification area.
2. A copy of the report should be mailed or delivered to the broker.
3. The report should be filed with the Commissioner at the address below within 30 days after the close of the period for which it is filed.
4. Mail to:

Bureau of Real Estate  
Mortgage Lending Activities  
P.O. Box 137015  
Sacramento, CA 95813-7015