



# MEMBERSHIP RULES AND REGULATIONS

**September 2014**

**Bay East A.O.R. of REALTORS®  
MEMBERSHIP RULES AND REGULATIONS**

---

**INDEX**

---

<b>Section 1 FORMS OF MEMBERSHIP.....</b>	<b>1</b>
<b>Section 2 APPLICATION.-----</b>	<b>1</b>
<b>Section 3 STATE AND NATIONAL ASSOCIATIONS-----</b>	<b>1</b>
<b>Section 4 RULES OF APPLICATION-----</b>	<b>1</b>
<b>Section 5 APPROVAL OF REALTOR® APPLICANTS-----</b>	<b>1</b>
<b>Section 6 MEMBERSHIP IMPLEMENTATION-----</b>	<b>3</b>
<b>Section 7 DUES-----</b>	<b>3</b>
<b>Section 8 APPLICATION OF FEES-----</b>	<b>3</b>
<b>Section 9 RETURN OF FEES-----</b>	<b>3</b>
<b>Section 10 AFFILIATE SERVICES-----</b>	<b>4</b>
<b>Section 11 RESIGNATIONS-----</b>	<b>4</b>
<b>Section 12 REALTOR® AND AFFILIATE MEMBER CHANGES.-----</b>	<b>4</b>
<b>Section 13 REQUIREMENTS TO NOTIFY A.O.R. OF AFFILIATION OF NEW SALES ASSOCIATE.-----</b>	<b>4</b>
<b>Section 14 LEAVE OF ABSENCE-----</b>	<b>4</b>
<b>Section 15. WAIVERS OF MEMBERSHIP REQUIREMENTS-----</b>	<b>4</b>
<b>Section 16 SUSPENSION (BYLAWS ARTICLE IX)-----</b>	<b>5</b>
<b>Section 17 TERMINATION (BYLAWS: ARTICLE IX)-----</b>	<b>5</b>
<b>Section 18 RIGHT TO NOTICE AND HEARING BEFORE TERMINATION-----</b>	<b>5</b>
<b>EXHIBIT “A” – BAY EAST BYLAWS ARTICLE IV MEMBERSHIP-----</b>	<b>6</b>
<b>SECTION 4.01 CLASSIFICATIONS-----</b>	<b>6</b>
<b>A. REALTOR® Members (Whether Primary or Secondary)-----</b>	<b>6</b>
<b>B. Primary and Secondary Members.-----</b>	<b>7</b>
<b>C. Institute Affiliate Members-----</b>	<b>7</b>
<b>D. Affiliate Members (Whether Platinum or Regular).-----</b>	<b>7</b>
<b>E. Honorary Members.-----</b>	<b>7</b>
<b>F. Student Members.-----</b>	<b>7</b>
<b>G. Emeritus Members.-----</b>	<b>7</b>

H. Distinguished Service Members	8
I. Franchise Corporate Officers	8
SECTION 4.02 TERM "MEMBER"	8
SECTION 4.03 TERM "MEMBER IN GOOD STANDING"	8
EXHIBIT "B"	9

## Section 1 FORMS OF MEMBERSHIP

The Bay East Association of REALTORS® (Bay East) provides the following forms of membership as described in Bylaws Article IV (Exhibit A).

1. REALTOR® (**Whether Primary or Secondary**)
2. Institute Affiliate
3. Affiliate and Platinum Affiliate
4. Honorary (REALTOR®)
5. Student
6. Emeritus
7. Distinguished Service
8. Franchise Corporate Officers

## Section 2 APPLICATION.

Applicants for membership are required to submit a completed application on Bay East's application form. Applicants for REALTOR® membership shall agree to abide by Bay East's governing documents, the Code of Ethics; Binding Arbitration, and the Constitution and Bylaws of the National Association of REALTORS® (NAR) and all future amendments thereto.

No applications may be accepted without valid proof of a current DRE license (i.e., DRE Card, DRE License).

## Section 3 **STATE AND NATIONAL** ASSOCIATIONS

Upon being approved for membership in Bay East, applicants automatically become eligible for NAR and the CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.) services by virtue of Bay East Association of REALTORS® being a Member Association of same.

## Section 4 RULES OF APPLICATION

The following rules apply to all Members and Membership Applicants.

## Section 5 APPROVAL OF REALTOR® APPLICANTS

- a. Applicants shall supply, upon request, evidence satisfactory to the Chief Staff Executive (or duly authorized designee) that applicant meets the requirements as described in NAR's Membership Qualification Criteria (Exhibit B), and conducts his/her business in an honorable manner. Applicant consents that Bay East, through its Board of Directors, or otherwise, may invite and receive information and comment about applicant from any Member or other person and that applicant agrees any information or comment furnished to Bay East shall be conclusively deemed to be privileged information and not the basis for slander, libel or defamation.
- b. The Chief Staff Executive (or duly authorized designee) shall determine if class of membership sought conforms to Bylaws.

- c. Prior Membership Records. Bay East may consider information received from other Associations in determining whether an applicant satisfies Bay East's membership requirements. Bay East may request from any Association where the applicant held prior membership, minimum "core" information including:
  - All final findings of Code of Ethics violations and violations of other membership duties within the past five (5) years;
  - (b) Pending complaints alleging violations of the Code of Ethics or alleging violations of other membership duties;
  - (c) Incomplete or (pending) disciplinary measures;
  - (d) Pending arbitration requests (or hearings);
  - (e) Unpaid arbitration awards or unpaid financial obligations to the Association or its MLS; and
  - (f) Any misuse of the term REALTOR® or REALTORS® in the name of the applicant's firm.

**NOTE:** Article V, Section 2, of the NAR Bylaws prohibits a Member A.O.R. from knowingly granting REALTOR® membership to any applicant who has an unfulfilled sanction pending which was imposed by another Association for violation of the Code of Ethics.

- d. The applicant shall satisfactorily complete the New Member Orientation Program provided by Bay East. Applicant will complete New Member Orientation Programs within sixty (60) days and the mandated NAR Ethics Class within ninety (90) days from date of application. All applicants for REALTOR® membership shall complete an orientation program of not less than two and a half hours on the Code of Ethics, meeting the minimum criteria established by NAR for new member ethics training. This requirement does not apply to applicants who have completed comparable orientation in another Association, provided that REALTOR® membership has been continuous, or that any break in membership is for one year or less. Failure to satisfy this requirement within ninety (90) days of the date of application will result in termination. If a REALTOR® drops Association Membership for more than (2) years, and then wishes to reinstate membership, he/she is required to pay an application fee along with the appropriate Bay East, C.A.R. and NAR dues.
- e. REALTORS® are required to complete the NAR mandated Ethics Class every four (4) years. Failure to complete the required periodic ethics training shall be considered a violation of a membership duty for which REALTOR® membership shall be suspended until such time as the required training is completed.
- f. Applicant's name may be posted in Bay East's periodic communications to its members.
- g. The Board of Directors may not reject an application without providing the applicant with advance notice of the findings, an opportunity to appear before the Board of Directors, to call witnesses on his behalf, to be represented by counsel, and to make such statements as he deems relevant. The Board of Directors may also have counsel present. The Board of Directors shall require that written minutes be made of any hearing before it or may electronically or mechanically record the proceedings.
- h. If the Board of Directors determines that the application should be rejected, it shall record its reasons with the Chief Staff Executive (or duly authorized designee). If the Board of Directors believes that denial of membership to the applicant may become the basis of litigation and a claim of damage by the applicant, it may specify that denial shall become effective upon entry in a suit by the Board for a declaratory judgment by a court of competent jurisdiction of a final judgment declaring that the rejection violates no rights of the applicant.

## Section 6 MEMBERSHIP IMPLEMENTATION

- a. Applicants shall be considered to have become Members of Bay East immediately following approval of their application by the Board of Directors.
- b. REALTOR® applicants shall be subject to all Bay East Rules and Regulations, Bylaws, Corporate Policy and Procedures including the Code of Ethics, as of the date of making application.
- c. Applicants are eligible to receive Bay East services as of the date of making application and payment of appropriate fees. Continuation of services is subject to the approval of their application by the Board of Directors.

## Section 7 DUES

- a. Dues are chargeable as per Article X of the Bylaws, namely;
  1. That portion of dues retained by Bay East as set annually by the Board of Directors.
  2. That portion of dues necessary to enable Bay East to meet dues obligations to C.A.R. and NAR.  
(See Article X, Section 10.3 of the Bay East Bylaws, regarding Designated REALTOR® responsibility for salesperson members to be advised of annual dues billing by June 1 of each year.)
- b. REALTOR®, Platinum Affiliate and Affiliate: Local Association dues paid to Bay East for REALTOR®, Platinum Affiliate, Affiliate and student applicants shall be prorated from the beginning of the current calendar month to the end of the year. For subsequent years, local Association dues paid to Bay East shall be paid annually in advance. Bay East dues for all other membership categories shall be paid as established by the Board of Directors in accordance with Bylaws, Article X.
- c. Individual Members are to be billed for annual Bay East dues. The Designated REALTOR®, is to be billed for REALTOR® dues based on number of licensees and licensed or certified appraisers associated with such REALTOR'S® firm, minus the number of licensees or certified appraisers who are Association Members.
- d. The Membership year is from July 1 of each year.
- d. C.A.R./NAR Allocations - REALTORS®: That portion of local Association dues necessary to enable Bay East to meet dues obligations to C.A.R./NAR for REALTOR® applicants shall be prorated from the beginning of the current calendar month to the end of the year. For subsequent years, that portion of local Association dues necessary to enable Bay East to meet dues obligations to C.A.R./NAR shall be paid annually in advance as part of the annual dues.
- f. Dues are non-refundable.

## Section 8 APPLICATION OF FEES

- a. There is no application fee for Honorary Members.
- b. Transfer Fees: There may be a transfer fee. A Transfer Form is to be completed when a REALTOR® working as a salesperson changes offices. No services will be furnished until Member has submitted the transfer form with proper Designated Broker's signature.-Transfer must be completed within ten (10) business days after leaving the firm.
- c. Reinstatement Fee (Bylaws Article X, Section 5): Determined by Directors.
- d. Payment Plan for Fees.

## Section 9 RETURN OF FEES

- a. Failure to complete the required Bay East Orientation Programs within the time specified in these Rules and Regulations shall constitute automatic cancellation of application and their

prepaid dues refunded less a prorated amount to cover the number of days that the individual received association services and any application fee. The applicant's PRINCIPAL-REALTOR® shall be notified and billed accordingly.

- b. In the event of disapproval of application by Bay East all fees collected at the time of application shall be refunded in full.
- c. Except as stated above, all fees and dues are non-refundable.

## Section 10 AFFILIATE SERVICES

Platinum Affiliate and Affiliate applicants shall be eligible for services due them upon payment of application fees to Bay East. A list of Bay East services for Platinum Affiliate and Affiliate Members is available upon request.

## Section 11 RESIGNATIONS

All requests for resignation from Bay East must be in writing. All rights of a Member in Bay East shall cease on the effective date of resignation or termination of such Member's membership. However, resignation or termination shall not relieve such Member from any obligation for charges incurred, services or other benefits actually rendered, fees, dues or assessments arising from contract or otherwise. Bay East shall retain the right to enforce any such obligation or obtain damages for its breach.

## Section 12 REALTOR® AND AFFILIATE MEMBER CHANGES.

- a. Firm Address Change: Written notification of firm address change must be submitted by the Designated REALTOR® only when the firm's address is changed. Notification must be submitted no later than seven (7) days after the address change. A list of licensees relocating to the new address must be submitted on the form.
- b. Individual Member Address Change: Written notification of personal address change must be submitted. If Member changing from one office to another, A Transfer Form must be completed and turned into Bay East within ten (10) days of the firm change.

## Section 13 REQUIREMENTS TO NOTIFY A.O.R. OF AFFILIATION OF NEW SALES ASSOCIATE.

Designated REALTOR® Members are required to notify Bay East when accepting the affiliation of a new sales associate. Such notification must be submitted within ten (10) days of affiliation. In this context, sales associates may be either a real estate licensed salesperson or broker. Failure to notify Bay East will cause the Designated REALTOR® Member to be subject to an assessment equal to the new sales associates Bay East, C.A.R. and NAR dues. In the event that the new sales associate of a Designated REALTOR® does not elect to apply for membership in Bay East within ten (10) days of application with the Designated REALTOR®, said Designated REALTOR® shall be responsible for registering the sales associate as a "SALESPERSON" and paying the equivalent of the sales associates' Bay East, C.A.R. and NAR dues as part of the Designated REALTOR® Members dues. (Article X, Section 3).

## Section 14 LEAVE OF ABSENCE

Leaves of absence shall not be granted.

## Section 15. WAIVERS OF MEMBERSHIP REQUIREMENTS

Any request for a waiver of a membership eligibility requirement must be made in writing as a "special request" to the Board of Directors. All recommendations will be reviewed by the Board of Directors. Appearance before the Board of Directors may be required.

## Section 16 SUSPENSION (BYLAWS ARTICLE IX)

- a. Bay East reserves the right to suspend any Member for violation of the Bylaws, Rules and Regulations of Bay East, or the Code of Ethics of NAR, or for any other conduct which discredits Bay East or the real estate profession after a hearing as provided in the Bylaws.
- b. Upon the severance of a REALTORS® professional relationship with a Principle REALTOR®, resulting in the REALTORS® license being no longer associated with a Principle REALTOR®.
- c. A REALTOR® Member whose license is suspended by the State of California or a state contiguous thereto, is automatically suspended from Bay East membership.
- d. Due to unpaid dues, fees, or assessments:
  1. Members shall be suspended for the non-payment of dues, fees, or assessments if the dues, fees, assessments are not paid within thirty (30) days, provided that at least ten (10) days notice has been given. This includes annual dues due on July 1 of any given year.

## Section 17 TERMINATION (BYLAWS: ARTICLE IX)

- a. Bay East reserves the right to terminate any Member for violation of the Bylaws, Rules and Regulations of Bay East, or the Code of Ethics of NAR, or for any other conduct which discredits Bay East, or the real estate profession after a hearing as provided by the Bylaws.
- b. Any Member not paying dues, fees, or assessments within thirty (30) days after the payment due date, may be terminated from membership. The Member's name is presented to the Board of Directors for confirmation of termination. The Member and the Member's Designated REALTOR® are then notified, in writing, of the termination and the Designated REALTOR® shall be responsible for the enforcement of Bylaws, Rules and Regulations, in denial of all services of the suspended member.

## Section 18 RIGHT TO NOTICE AND HEARING BEFORE TERMINATION

Any Member being considered for termination for reasons other than the non-payment of dues, fees, or assessments, shall be notified of the pending action at least twenty (20) business days prior to the convening of the Board of Directors at which the termination is being considered.



**EXHIBIT "A"**  
**Bay East Bylaws Article IV – Membership**

SECTION 4.01 CLASSIFICATIONS

There are eight classifications of membership which are:

**A. REALTOR® Members (Whether Primary or Secondary)**

1. Individuals who, as sole proprietor, partners, corporate officers or branch office managers are engaged actively in the real estate profession, including buying, selling, exchanging, renting or leasing, managing, appraising for others for compensation, building, developing or subdividing real estate, and who maintain or are associated with an established real estate office within the state of California or a state contiguous thereto and a) Have no record of official sanctions rendered by the courts or other lawful authorities for (i) violations of civil rights laws or real estate license laws within the past three years or (ii) criminal convictions if (1) the crime was punishable by death or imprisonment in excess of one year under the law under which the applicant was convicted and (2) no more than ten years have elapsed since the date of the conviction or the release of the applicant from the confinement imposed for that conviction, whichever is the later date. All such persons who are partners in a partnership, or all officers in a corporation who are actively engaged in real estate profession within the state of California shall qualify for REALTOR® membership only, and each is required to hold REALTOR® membership (except as provided in the following paragraph) in Bay East, in C.A.R. and NAR. unless otherwise qualified for Institute Affiliate Membership as described in these Bylaws.

In the case of a REALTOR® member who is a principal of a real estate firm, partnership or corporation whose business activity is substantially all commercial, the right to use the term REALTOR® or REALTORS® shall be limited to office locations in which a principal, partner, corporate officer or branch office manager of the firm, partnership or corporation holds REALTOR® membership. If a firm, partnership or corporation operates additional places of business in which no principal, partner, corporate officer or branch office manager holds REALTOR® membership, the term REALTOR® or REALTORS® may not be used in any reference to those additional places of business.

NOTE. REALTOR® Members may obtain membership in a "secondary" Association in another state.

2. Individuals who are engaged in the real estate profession other than as principals, partners, corporate officers or trustees and who are licensed by the State of California as real estate brokers or licensed/certified appraisers, and as such are associated with a PRINCIPAL-REALTOR® and meet the qualifications set forth in these Bylaws. These Members may be sometimes referred to in these Bylaws as a REALTOR®-BROKER.
3. Individuals who are engaged in the real estate profession other than as sole proprietors, partners, or corporate officers, but who are in positions of management control, on behalf of the sole proprietor or corporate officer.
4. Individuals who are engaged in the real estate profession and who are licensed/certified by the State of California as a real estate salesperson and as such are associated with either a PRINCIPAL-REALTOR® or a REALTOR®-BROKER and meet the qualifications set forth in these Bylaws.

5. Individuals who are engaged in real estate profession as Appraisers and who are licensed/certified as such under the auspices of California Office of Real Estate Appraisers (OREA) as defined in California Assembly Bill 527 - Chapter 491 - 1991 (as defined in Sections 11300 ET Seq. of the Business and Professional Code of the California Real Estate/Appraisal Law).

**B. Primary and Secondary Members.**

1. An individual is a primary member of an Association if the Association of REALTORS® pays C.A.R. and NAR dues for that individual. An individual is a secondary member if C.A.R. and NAR dues are remitted through another Board or Association.
2. There must be a Designated REALTOR® member of Bay East for licensees affiliated with the firm to select Bay East as their primary Association. There need not be a Designated REALTOR® member of Bay East for licensees affiliated with the firm to select Bay East as their secondary Association.

**C. Institute Affiliate Members**

Shall be individuals who hold a professional designation awarded by an Institute, Society or Council affiliated with NAR that addresses a specialty area other than residential brokerage or individuals who otherwise hold a class of membership in such Institute, Society or Council that confers the right to hold office. Any such individual, if otherwise eligible, may elect to hold REALTOR® membership, subject to payment of applicable dues for such membership.

**D. Affiliate Members (Whether Platinum or Regular).**

Affiliate Members shall be real estate owners and other individuals or firms engaged in activities related to the real estate profession who do not qualify for REALTOR® membership. Affiliate members have interests requiring information concerning real estate, and are in sympathy with the objectives of Bay East.

**E. Honorary Members.**

Specific criteria of Honorary Members, as well as the rights, privileges, and responsibilities of this Membership category, shall be established by the Board of Directors and set forth in the Membership Rules and Regulations.

**F. Student Members.**

Student Members shall be students enrolled in an undergraduate or graduate degree program at an institution of higher education with a specialization or major in real estate, or who are seeking to obtain a real estate license or appraiser's license but who are not eligible for REALTOR® membership.

**G. Emeritus Members.**

Emeritus membership may be granted to a REALTOR® Member who has a history of outstanding service to Bay East, and receives the unanimous vote of the Directors while a quorum is present.

Additional criteria for this membership category shall be: minimum age of 60 years; minimum of fifteen (15) years in Bay East; and shall, during the course of his or her membership in Bay East have been either: 1) an Elected Officer of Bay East, or 2) a Director of Bay East for a minimum of two terms and served effectively as a committee chair for a minimum of four years.

#### **H. Distinguished Service Members**

Distinguished Service membership may be granted to a current or former REALTOR® member of Bay East who has a history of outstanding services to Bay East, minimum of fifteen (15) years with Bay East; and shall, during the course of his or her membership in Bay East have been either 1) an Elected Officer of Bay East; or 2) Elected Officer of C.A.R. or NAR, and is not currently licensed as a real estate agent.

#### **I. Franchise Corporate Officers**

Notwithstanding any other provision herein, franchise corporate officers of real estate brokerage franchise organizations with at least one hundred fifty franchisees located within the United States, its insular possessions and the commonwealth of Puerto Rico, may be elected to membership pursuant to the Constitution and Bylaws of the National Association (hereinafter "Franchise Corporate Officers"). Franchise Corporate Officers may or may not be licensed for California real estate broker or salesperson or appraisal activities.

Franchise Corporate Officers shall enjoy all of the rights, privileges and obligations of REALTOR® membership, including compliance with the Code of Ethics, except obligations related to A.O.R. mandated education, meeting attendance, or indoctrination classes or other similar requirements, if any; the right to use the term REALTOR® in connection with their franchise organization's name,; and the right to hold elective office in the A.O.R., C.A.R. and N.A.R.

#### **SECTION 4.02 TERM "MEMBER"**

The term "Member" as used in these Bylaws shall mean only REALTOR® Members unless otherwise expressly indicated or otherwise necessarily required by the context. The use of the word Member in connection with the terms "Institute Affiliate Members," "Emeritus Members", "Honorary Members," "Student Members" "Affiliate Members," shall not be construed to confer upon any such nonvoting Members the right to vote or any other rights of a "Member" of the Corporation within the meaning of section 5056 of the California Non-Profit Corporation Law, with the exception of the limited voting right afforded Platinum Affiliate members as set forth in the Bylaws.

#### **SECTION 4.03 TERM "MEMBER IN GOOD STANDING"**

The term "Member in good standing" as used in these Rules & Bylaws shall mean REALTOR® Members, Affiliate Members and Platinum Affiliate Members who have satisfied all financial obligations to Bay East.

## EXHIBIT "B"

Membership qualification criteria of NAR (for applicants for REALTOR® membership who are other than sole proprietors, partners, corporate officers, or branch office managers in a real estate firm). The following criteria of membership are identical in purpose with the Membership Criteria for REALTORS® who are principals in a real estate firm. They are the most rigorous qualifications which may be required by an Association of REALTORS® in the consideration of applicants for REALTOR® Membership who are other than sole proprietors, partners, corporate officers or branch office managers of real estate firms. These were developed by the Membership Committee of NAR to provide "reasonable and nondiscriminatory written requirements for membership." Bay East may elect to adopt all, some, or none of the Criteria, but those, which are adopted, must be included in Bay East's Bylaws. The following Criteria and explanatory notes have the approval of legal counsel, NAR, and were approved by the Board of Directors of NAR in November 1974, and amended in 1983, 1990 and 1996.

- a. An applicant for REALTOR® Membership who is a sole proprietor, partner, or corporate officer of a real estate firm shall supply evidence satisfactory to Bay East through its Board of Directors that he/she is presently licensed by the California Department of Real Estate, or Licensed/Certified under the auspices of the California Office of Real Estate Appraisers (OREA) as defined in Section 401 (A) and specified in Section 11300 ET-Seq. of the Business and Professional Code, actively engaged in the real estate regulations within Bay East's jurisdiction, have no record of official sanctions rendered by the courts or other lawful authorities for (a) violations of civil rights laws or real estate license laws within the past three years or (b) criminal convictions if (i) the crime was punishable by death or imprisonment in excess of one year under the law under which the applicant was convicted and (ii) no more than ten years have elapsed since the date of the conviction or the release of the applicant from the confinement imposed for that conviction, whichever is the later date, and agrees to complete a course of instruction covering the Bylaws and Rules and Regulations of Bay East, the Bylaws of C.A.R., and the Constitution and Bylaws and Code of Ethics of NAR, and shall pass such reasonable and nondiscriminatory written examination thereon as may be required by the Board of Directors, and shall agree that if elected to Membership, he/she will abide by such Constitution, Bylaws, Rules and Regulations, and Code of Ethics.
- b. Individuals who are actively engaged in the real estate profession other than as principals, partners, or corporate officers, in order to qualify for REALTOR® Membership, shall at the time of application, be associated either as an employee or as an independent contractor with a REALTOR® Member of Bay East, shall have the written recommendation of such REALTOR® Member, have no record of official sanctions rendered by the courts or other lawful authorities for (a) violations of civil rights laws or real estate license laws within the past three years or (b) criminal convictions if (i) the crime was punishable by death or imprisonment in excess of one year under the law under which the applicant was convicted and (ii) no more than ten years have elapsed since the date of the conviction or the release of the applicant from the confinement imposed for that conviction, whichever is the later date, and shall complete a course of instruction covering the Bylaws and Rules and Regulations of Bay East, the Bylaws of C.A.R., and the Constitution and Bylaws and Code of Ethics of NAR, and shall pass such reasonable and nondiscriminatory written examinations thereon as may be required by the Board of Directors, and shall agree in writing that if elected to Membership, he/she will abide by the Code of Ethics of NAR, and by the Constitution, Bylaws and Rules and Regulations of Bay East, C.A.R., and NAR.

A REALTOR® with a direct or indirect ownership interest in an entity engaged in the real estate business which provides services for which a Mortgage Loan Originators license endorsement (MLO) is required may annually file with the association, on a form approved by the association, a list of the MLO licensees and certify that the listed licensees (1) have a MLO license or endorsement; (2) are not engaged in real estate licensed activities except those for which an MLO is required; and (3) are not participant or subscribers in any Multiple Listing Service. The individuals disclosed on such forms shall not be deemed to be licensed with the REALTOR® filing the form for

purposes of this Article IX, Section 2(b) and shall not be included in calculating the annual dues of the Designated REALTOR®.

The exemption for any licensee included on the certification forms shall automatically be revoked upon the individual being engaged in real estate licensed activities (listing, selling, leasing, renting, managing, counseling or appraising) other than referrals, providing services for which a real estate license is required, other than those for which an MLO license is required, or being a participant or subscriber of any Multiple Listing Service, and dues for the current fiscal year shall be payable.

- c. In the case of a Designated REALTOR® member in a firm, partnership, or corporation whose business activity is substantially all commercial, any assessments for non-member licensees shall be limited to licensees affiliated with the Designated REALTOR® in the office where the Designated REALTOR® holds membership, or any other offices of the firm located within the jurisdiction of Bay East in which one of the firm's principals holds REALTOR® membership. All Other Membership. Applicants for all other classes of membership shall apply for membership on such forms and shall satisfy such other reasonable requirements as the Board of Directors may require.

1. A VALID REAL ESTATE LICENSE (AND ARE ACTIVELY ENGAGED IN THE REAL ESTATE BUSINESS AND ITS RECOGNIZED BRANCHES).

Explanation: "A valid real estate license" is intended to mean that applicants for REALTOR® Membership who are sole proprietors, partners, corporate officers, or branch office managers in a firm engaged in the real estate business must maintain a current, valid real estate broker's or salesperson's license or must be licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.

The term "actively engaged" in business contemplates that the licensed or certified applicants will have an office for the conduct of real estate business and shall hold themselves out to the public as being actively engaged in the real estate business, and shall actively seek and service real estate business. It does not contemplate that applicants must devote all or even a majority of their time to the real estate business or derive any particular percentage of their income from such business. It does not contemplate that applicants shall have no other job or occupation.

Where question arises as to whether or not applicants are "actively engaged" in the real estate business, they shall be given the opportunity to present evidence concerning the actual and intended scope of their business activities. In the event any applicant for membership is rejected on the basis of failure to be "actively engaged," the Board should promptly seek a declaratory judgment from a court of competent jurisdiction affirming the propriety of such rejection.

2. EMPLOYED BY OR AFFILIATED WITH A REALTOR® AS AN INDEPENDENT CONTRACTOR.

Explanation: The basic qualification is employment or affiliation with a REALTOR®. The qualification is met by individuals regardless of whether they operate out of the principal office of the REALTOR® or a branch office.

3. MEMBERSHIP FILE.

Qualification: Associations may, at their discretion, consider the following in determining an applicant's qualifications for membership:

- a. All final findings of Code of Ethics violations and violations of other membership duties in any other association within the past five (5) years
- b. Pending ethics complaints (or hearings)
- c. Unsatisfied discipline pending
- d. Pending arbitration requests (or hearings)
- e. Unpaid arbitration awards or unpaid financial obligations to any other Association or Association MLS

“Provisional” membership may be granted in instances where ethics complaints or arbitration requests (or hearings) are pending in other associations or where the applicant for membership has unsatisfied discipline pending in another association (provided all other qualifications for membership have been satisfied). Bay East may reconsider the membership status of such individuals when all pending ethics and arbitration matters (and related discipline) have been resolved or within six months from the date that provisional membership is approved if such matters have not been resolved. Provisional members shall be considered REALTORS® and shall be subject to all of the same privileges and obligations of REALTOR® membership.

If a member resigns from another association with an ethics complaint or arbitration request pending, Bay East may condition membership on the applicant’s certification that he/she will submit to the pending ethics or arbitration proceeding (in accordance with the established procedures of the association to which applicant has made application) and will abide by the decision of the hearing panel.

5. SIGNIFIED THEIR INTENTION TO ABIDE BY THE NATIONAL ASSOCIATION OF REALTORS® CODE OF ETHICS.
6. SIGNIFIED THEIR INTENTION TO ABIDE BY THE CONSTITUTION, BYLAWS, POLICY, AND RULES AND REGULATIONS OF BAY EAST, C.A.R. and NAR.

Explanation: By such agreement in the application, applicants assume a continuing membership obligation.

7. COMPLETED THE ASSOCIATION INDOCTRINATION COURSE.

**Explanation: It is presumed that the Indoctrination Course to be completed as a prerequisite for membership is confined to the subjects of the Constitution, Bylaws, policies, rules and regulations of Bay East, C.A.R. and NAR as well as the Code of Ethics of NAR. It is not contemplated that completion of the Indoctrination Course covering topics including in the licensing examination will be required for qualification.**

Bay East may require that applications for membership submitted by non-principal brokers, sales licensees, and licensed or certified appraisers be “acknowledged” by a REALTOR® who is a sole proprietor, partner, corporate officer, or branch office manager of the firm.

**IMPORTANT NOTE TO MEMBER ASSOCIATIONS:**

When an Association declines to accept an applicant on the basis of failure to satisfy Point 1 (actively engaged), it is recommended that the Board seek a declaratory judgment in the civil courts, affirming its decision. Board legal counsel will advise as to the proper form and procedures in seeking a declaratory judgment. A sample form that may be used for this purpose is included in the Code of Ethics and Arbitration Manual. No petition should be prepared except by Board legal counsel.