



## Model Rule on Client Identification and Verification Requirements

*Adopted by Council of the Federation of Law Societies of Canada  
as of March 20, 2008*

### Definitions

1. In this Rule,

“financial institution” means

- (a) an authorized foreign bank within the meaning of section 2 of the *Bank Act* in respect of its business in Canada or a bank to which the *Bank Act* applies,
- (b) a cooperative credit society, savings and credit union or caisse populaire that is regulated by a provincial Act,
- (c) an association that is regulated by the *Cooperative Credit Associations Act* (Canada),
- (d) a company to which the *Trust and Loan Companies Act* (Canada) applies,
- (e) a trust company or loan company regulated by a provincial Act, or
- (f) a department or agent of Her Majesty in right of Canada or of a province where the department or agent accepts deposit liabilities in the course of providing financial services to the public;

“funds” means cash, currency, securities and negotiable instruments or other financial instruments that indicate the person’s title or interest in them;

“lawyer” means, in the Province of Quebec, an advocate or a notary and, in any other province, a barrister or solicitor;

“organization” means a body corporate, partnership, fund, trust, co-operative or an unincorporated association;

"private company" means a company whose governing statute or constating documents provides that:

- (a) the right to transfer its shares is restricted,
- (b) the number of its shareholders, exclusive of persons who are in the employ\_of the company, is limited to 50, two or more persons holding one or more shares jointly being counted as a single shareholder; and
- (c) any invitation to the public to subscribe for its shares or securities is prohibited.

"public body" means

- (a) a department or agent of Her Majesty in right of Canada or of a province,
- (b) an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body or an agent of any of them,
- (c) a local board of a municipality incorporated by or under an Act of a province or territory of Canada including any local board as defined in the *Municipal Act* (Ontario) [or equivalent legislation] or similar body incorporated under the law of another province or territory,
- (d) an organization that operates a public hospital and that is designated by the Minister of National Revenue as a hospital under the *Excise Tax Act* (Canada) or an agent of the organization, or
- (e) a body incorporated by or under the law of an Act of a province or territory of Canada for a public purpose.

### **Client Identity**

2. (1) Subject to subsection (2), a lawyer who is retained by a client to provide legal services must comply with the requirements of this Rule.

- (2) Sections 3 through 9 do not apply to
  - (a) a lawyer when he or she provides legal services and engages in or gives instructions in respect of any of the activities described in section 4 on behalf of his or her employer, or
  - (b) a lawyer
    - (i) who is engaged as an agent by the lawyer for a client to provide legal services to the client, or

- (ii) to whom a matter for the provision of legal services is referred by the lawyer for a client,  
when the client's lawyer has complied with sections 3 through 9.

3. A lawyer who is retained by a client as described in section 2(1) shall obtain and record the following information:

- (a) the client's full name,
- (b) the client's business address and business telephone number, if applicable,
- (c) if the client is an individual, the client's home address and home telephone number,
- (d) if the client is an organization, the organization's incorporation or business identification number and the place of issue of its incorporation or business identification number, if applicable,
- (e) if the client is an individual, the client's occupation or occupations,
- (f) if the client is an organization,
  - (i) other than a financial institution, public body or company that is not a private company, the general nature of the type of business or businesses or activity or activities engaged in by the client, where applicable, and
  - (ii) the name, position and contact information for those individuals authorized to give instructions with respect to the matter for which the lawyer is retained,
- (g) if the client is acting for or representing a third party beneficiary or a principal, information about the beneficiary or principal as set out in paragraphs (a) to (f) as applicable.

#### **Client Identity and Verification**

4. Section 6 applies where a lawyer engages on behalf of a client in or gives instructions on behalf of a client in respect of the receiving, paying or transferring of funds.

#### **Exemptions re: certain funds**

5. Section 6 does not apply in respect of funds,

- (a) paid by a financial institution, public body or a company that is not a private company;
- (b) paid to
  - (i) a financial institution,
  - (ii) a public body, or
  - (iii) a client that is a company that is not a private company;
- (c) paid to another lawyer in trust, on the direction of the client;
- (d) received by a lawyer from the trust account of another lawyer;
- (e) received from a peace officer, law enforcement agency or other public official acting in their official capacity;
- (f) paid pursuant to a court order or to pay a fine or penalty;
- (g) paid as a settlement of any legal or administrative proceedings; or
- (h) received for professional fees, disbursements, expenses or bail.

6. (1) When a lawyer is engaged in or gives instructions in respect of any of the activities described in section 4, including non-face-to-face transactions, the lawyer shall take reasonable steps to verify the identity of the client and, where appropriate, the third party beneficiary or principal, using what the lawyer reasonably considers to be reliable, independent source documents, data or information.

#### **Examples of independent source documents**

- (2) For the purposes of subsection (1), independent source documents may include:
- (a) if the client or third party beneficiary or principal is an individual, valid original government issued identification, including a driver's licence, birth certificate, provincial or territorial health insurance card [if such use of the card is not prohibited by the applicable provincial or territorial law], passport or similar record;
  - (b) if the client or third party beneficiary or principal is an organization such as a corporation or society that is created pursuant to legislative authority, a written confirmation from a government registry as to the existence, name and address of the organization, including the names of its directors and officers, such as

- (i) a certificate of corporate status issued by a public body,
  - (ii) a copy obtained from a public body of a record that the organization is required to file annually under applicable legislation, or
  - (iii) a copy of a similar record obtained from a public body that confirms the organization's existence; and
- (c) if the client or third party beneficiary or principal is an organization, other than a corporation or society, that is not registered in any government registry, such as a trust or partnership, a copy of the organization's constating documents, such as a trust or partnership agreement, articles of association, or any other similar record that confirms its existence as an organization.

### **Identifying Directors, Shareholders and Owners**

- (3) When a lawyer is engaged in or gives instructions in respect of any of the activities in section 4 for a client that is an organization referred to in subsection (2)(b) or (c), the lawyer shall make reasonable efforts to obtain, and if obtained, record,
- (a) the name and occupation of all directors of the organization, other than an organization that is a securities dealer, and
  - (b) the name, address and occupation of all persons who own 25 per cent or more of the organization or of the shares of the organization.

### **Client Identity and Verification in Non-Face-to-Face Transactions**

(4) When a lawyer engages in or gives instructions in respect of any of the activities in section 4 for a client who is an individual who is not physically present before the lawyer but is present elsewhere in Canada, the lawyer shall verify the client's identity by obtaining an attestation from a commissioner of oaths in Canada, or a guarantor in Canada, that the commissioner or guarantor has seen one of the documents referred to in subsection (2)(a).

- (5) For the purpose of subsection (4), an attestation shall be produced on a legible photocopy of the document and shall include
- (a) the name, profession and address of the person providing the attestation;
  - (b) the signature of the person providing the attestation; and

(c) the type and number of the identifying document provided by the client.

(6) For the purpose of subsection (4), a guarantor must be a person employed in one of the following professions in Canada:

- (a) dentist;
- (b) medical doctor;
- (c) chiropractor;
- (d) judge;
- (e) magistrate;
- (f) lawyer;
- (g) notary (in Quebec);
- (h) notary public;
- (i) optometrist;
- (j) pharmacist;
- (k) professional accountant (APA [Accredited Public Accountant], CA [Chartered Accountant], CGA [Certified General Accountant], CMA [Certified Management Accountant], PA [Public Accountant] or RPA [Registered Public Accountant]);
- (l) professional engineer (P.Eng. [Professional Engineer, in a province other than Quebec] or Eng. [Engineer, in Quebec]); or
- (m) veterinarian.

### **Use of Agent**

(7) For the purpose of subsection (2)(a), a lawyer may, and in the case of a non-face-to-face transaction involving a client who is not present in Canada shall, rely on an agent to obtain the information, which may include, where applicable, an attestation described in this section, to verify the client's identity provided the lawyer and the agent have an agreement or arrangement in writing for this purpose.

(8) A lawyer who enters into an agreement or arrangement referred to in subsection (7) shall obtain from the agent the information obtained by the agent under that agreement or arrangement.

### **Timing of Verification for Individuals**

(9) A lawyer shall verify the identity of

- (a) a client who is an individual, and
- (b) the individual or individuals authorized to give instructions on behalf of an organization with respect to the matter for which the lawyer is retained,

upon engaging in or giving instructions in respect of any of the activities described in section 4.

(10) Where a lawyer has verified the identity of an individual, the lawyer is not required to subsequently verify that same identity if the lawyer recognizes that person.

### **Timing of Verification for Organizations**

(11) A lawyer shall verify the identity of a client that is an organization within 60 days of engaging in or giving instructions in respect of any of the activities described in section 4.

(12) Where the lawyer has verified the identity of a client that is an organization and obtained information pursuant to subsection 6(3), the lawyer is not required to subsequently verify that identity or obtain that information.

### **Record keeping and retention**

7. (1) A lawyer shall obtain and retain a copy of every document used to verify the identity of any individual or organization for the purposes of section 6(1).

(2) The documents referred to in subsection (1) may be kept in a machine-readable or electronic form, if a paper copy can be readily produced from it.

(3) A lawyer shall retain a record of the information and any documents obtained for the purposes of sections 3 and 6(3) and copies of all documents received for the purposes of section 6(1) for the longer of

- (a) the duration of the lawyer and client relationship and for as long as is necessary for the purpose of providing service to the client, and
- (b) a period of at least six years following completion of the work for which the lawyer was retained.

**Application**

8. Sections 2 through 7 of this Rule do not apply to matters in respect of which a lawyer was retained before this Rule comes into force but they do apply to all matters for which he or she is retained after that time regardless of whether the client is a new or existing client.

**Criminal activity, duty to withdraw at time of taking information**

9. (1) If in the course of obtaining the information and taking the steps required in sections 3 and 6(1) or (3), a lawyer reasonably suspects that he or she is or would be assisting a client in dishonesty, fraud, crime or illegal conduct, the lawyer must withdraw from representation of the client.

**Application**

(2) This section applies to all matters, including new matters for existing clients, for which a lawyer is retained after this Rule comes into force.

**Criminal activity, duty to withdraw after being retained**

10. (1) If while retained by a client, a lawyer reasonably suspects that he or she is or would be assisting the client in dishonesty, fraud, crime or illegal conduct, the lawyer must withdraw from representation of the client.

**Application**

(2) This section applies to all matters for which a lawyer was retained before this Rule comes into force and to all matters for which he or she is retained after that time.