



Client ID and Verification Requirements Enhance Public Protection

Overview

On April 24, 2008, the Law Society of Upper Canada's governing board (Convocation) approved amendments to By-Law 7.1 [Operational Obligations and Responsibilities] to establish rigorous Client ID and Verification regulations for Ontario's lawyers and paralegals. The amendments, effective October 31, 2008, enhance public protection by requiring the lawyer or paralegal to identify and verify the identity of a client, which will assist in preventing potential fraudulent or criminal activities.

The amendments to By-Law 7.1 are based on a Model Rule developed by the Federation of Law Societies of Canada, the umbrella organization for Canada's 14 Law Societies. The adoption of the rule follows the Law Society's consultation with the profession on the content of the Model Rule in the fall of 2007.

In many respects, the amendments codify the steps a prudent lawyer or paralegal would take in the normal course to verify a client's identity upon being retained to provide legal services.

Details of the new requirements

The new requirements will assist lawyer and paralegal licensees in identifying any potential fraudulent client activities, for example whether a client is attempting to use the licensee to launder funds.

Client Identification

The amendments require licensees to follow certain client identification procedures whenever a licensee is retained to provide professional services to a client.

Client Verification

The verification requirements are triggered where the licensee receives, pays or transfers funds on behalf of a client. The licensee must take reasonable steps to verify the identity of the client by referencing reliable, independent source documents, data or information. Some funds transactions are exempt. For example, the requirements do not apply when funds are paid to the licensee by a financial institution, public body, or a public company, or received from the trust account of another licensee.

Information Records

The amendments also require licensees to keep a record of the information and documents obtained to identify and verify the identity of clients.

This information would be available to the Law Society for the purpose of ensuring compliance with the requirements.

Withdrawal of Service

The amendments require the licensee who reasonably suspects that his or her activities on behalf of the client would assist the client in fraudulent or criminal activity to cease those activities, or, if that cannot be done, to withdraw from representation.