



VERIFYING THE IDENTITY OF AN INDIVIDUAL²

(This document has been prepared to assist lawyers to determine whether they are required to verify the identify of an individual and if so, the steps that they are required to take)

- 1. Determine whether you are retained to provide legal services to a client?**
- 2. If yes, determine whether you will engage in or instruct with respect to the receipt, payment or transfer of funds?**
- 3. If yes, determine with respect to each funds transaction if an exemption to the requirement to verify identity applies?**

The exemptions are:

- you are providing legal services to your employer, for example as in-house counsel
- you are acting as an agent for another lawyer (an individual authorized to practise law anywhere in a province or territory of Canada) or a paralegal licensed by the Law Society of Upper Canada, who has already verified the identity of the client
- you are acting for a client who has been referred to you by another lawyer (an individual authorized to practise law anywhere in a province or territory of Canada) or a paralegal licensed by the Law Society of Upper Canada who has already verified the identity of the client
- you are providing legal services as a duty counsel under the *Legal Aid Services Act, 1998*, as a duty counsel providing professional services

² This document has been prepared to assist lawyers to comply with the client identification and verification requirements of By-Law 7.1. Lawyers should refer to the by-law for a more detailed outline of their obligations. Please note that some of the terminology used to delineate the lawyer's obligations is specifically defined in the By-Law.

through a duty counsel program operated by a not-for-profit organization or as the provider of legal aid services through the provision of summary advice under the *Legal Aid Services Act, 1998*.

- funds are being paid to or received from a financial institution, public body (government) or reporting issuer (public company)
 - funds are being received from the trust account of another lawyer (an individual authorized to practise law anywhere in a province or territory of Canada) or a paralegal licensed by the Law Society of Upper Canada
 - funds are being received from a peace officer, law enforcement agency or other public official acting in an official capacity
 - funds are being received or paid pursuant to a court order
 - funds are being paid to pay a fine or penalty
 - funds are being paid or received as a settlement in a proceeding before an adjudicative body
 - funds are being paid for professional fees, disbursements, expenses or bail
 - funds are being paid, received or transferred by electronic funds transfer
 - you have previously verified the identity of an individual and you recognize the individual
 - the client and/or third party is an organization and you or an employee of your firm or a lawyer or paralegal in your firm licensed by the Law Society of Upper Canada have previously identified the organization by obtaining the name and occupations of each director of the organization and the name, address and occupations of each person who owns 25% or more of the organization or of the shares of the organization and have verified the identity of that organization including the individuals authorized to give instructions on behalf of the organization with respect to the matter.
- 4. If an exemption applies, you are not required to verify the identity of your client. If no exemption applies, you must verify the identity of your client and any third party instructing or having the authority to instruct your client.**
- 5. To verify the identity of an individual, either before or when you act or give instructions regarding the receiving, paying or transferring of funds obtain and review an original government issued identification of that individual that is valid and has not expired such as a:**

- Driver's Licence
- Birth Certificate
- Passport, or
- Other similar record

6. If the individual is present in Canada and you are not meeting face to face with him or her, you must verify that individual's identity by one of the following methods:

- Obtain an attestation from a commissioner of oaths or other approved person³ who has verified the individual's identity by looking at an appropriate identity document, or
- Retain an agent to verify the identity of that individual on your behalf and prior to the agent acting on your behalf enter into a written agreement with that agent specifying the steps that he or she will be taking on your behalf to comply with the verification requirements

7. If the individual is not present in Canada and you are not meeting face to face with him or her, you must verify that person's identity by:

- Retaining an agent to verify the identity of that individual on your behalf and prior to the agent acting on your behalf entering into a written agreement with that agent specifying the steps that he or she will be taking on your behalf to comply with the verification requirements

Sample Form Attestation – Appendix 4

Sample Agreement – Appendix 5

8. Retain a record of the information that you obtain and copies of the documents you receive to verify identity for the longer of:

- six years following completion of the work for which you were retained
- the duration of the lawyer and client relationship and for as long as it is necessary for the purpose of providing service to the client

Sample File Form – Appendix 6

³ Subsection 23(9) designates the following persons as persons who may provide an attestation: a person entitled to administer oaths and affirmations in Canada, a dentist, a physician, a chiropractor, a judge, a magistrate or justice of the peace, a lawyer, a licensee (Ontario), a notary (Quebec), a notary public, an optometrist, a pharmacist, an accountant, a professional engineer, a veterinarian, a police officer, a nurse or a school principal.