



CLIENT IDENTIFICATION AND VERIFICATION REQUIREMENTS FOR LAWYERS

INTRODUCTION

The new client identification and verification requirements came into effect on December 31, 2008. Part III of By-Law 7.1 contains four main requirements:

- identifying the client and certain third parties
- verifying the identity of the client and certain third parties
- maintaining records, and
- withdrawing from representation in appropriate circumstances.

Identifying the client means obtaining certain basic information about your client and any third party directing, instructing or who has the authority to direct or instruct your client such as a name and address. You must obtain this information whenever you are retained to provide legal services to a client unless an exemption applies. Some of this information is likely information that you were obtaining prior to the implementation of the By-Law as part of your file opening process.

Verifying the identity of a client means actually looking at an original identifying document from an independent source to ensure that your clients and any third parties are who they say they are. You are only required to verify the identity of your client and such third parties if you are involved in a funds transfer activity, that is, ***you engage in or instruct with respect to the payment, receipt or transfer of funds***. You are not required to identify and/or verify the identity of your client and such third parties in all situations. The By-Law contains certain exemptions which are outlined in the Qs & As below. To determine whether you are required to verify identity or whether an exemption applies, you must look at each funds transaction separately. For example, if you are acting for a purchaser and receive closing funds from the purchaser and you later pay out the closing funds to the vendor, you must consider the receipt and payment of funds separately. Both transactions would need to be exempt in order for you not to be required to verify the identity of your client.

To determine whether you are required to comply with the client identification and verification requirements consider.

1. Are you being retained to provide legal services to a client?

If yes, you must identify your client and any third party instructing or directing your client or who has the authority to instruct or direct your client unless an exemption to the client identification requirement applies.

2. Are you engaging in or instructing with respect to the receipt, payment or transfer of funds?

If, yes, you must verify the identity of your client and any third party directing or instructing your client or who has the authority to direct or instruct your client unless an exemption applies.

3. If you are required to verify the identity of an organization, you must also verify the identity of the individual giving you instructions on behalf of the organization and you must use reasonable efforts to obtain certain identifying information about the directors of the organization and certain shareholders.

4. If you are required to verify the identity of an individual who you are not meeting face to face, you must obtain an attestation from a commissioner of oaths or guarantor or you must have an agent verify identity on your behalf.

Appendix 1 outlines the steps for identifying individuals and organizations.

Appendix 2 outlines the steps for verifying the identity of an individual.

Appendix 3 outlines the steps for verifying the identity of an organization.

Appendix 4 contains a sample attestation for situations where you are required to verify the identity of an individual **who is present in Canada** and who you are not meeting face to face.

Appendix 5 contains a sample agreement for situations where you are required to verify the identity of an individual and you retain an agent to do this on your behalf.

Appendix 6 contains sample file forms

Appendix 7 contains background information on the new requirements and information on the Federal Regulations

Appendix 8 contains steps to assist lawyers in complying with the new client identification and verification requirements

Appendix 9 – Questions and answers on the following topics:

1. Identifying the Client
2. Verifying the Identity of the Client
3. Verifying the identity of a Client – Non Face to Face Meetings
4. Practice Specific Issues
5. Recordkeeping
6. Withdrawal from Representation