

CLIENT IDENTIFICATION AND VERIFICATION RULES

INTRODUCTION

The Rules require lawyers to follow certain client identification and verification procedures when retained by a client. The Rules also require lawyers to keep a record of the information and documents obtained to identify and verify the identity of clients.

Generally speaking the client *identification* requirements apply when a lawyer provides professional services to a client. These requirements call for lawyers to obtain and record basic identification information about individual or organizational clients.

The identity *verification* requirements are triggered where the lawyer who has been retained by a client to provide legal services engages in or gives instructions in respect of the receiving, paying or transferring of funds. Lawyers must obtain information that confirms the identity of their client. A number of exceptions are included. For example, funds paid to the lawyer by a financial institution, public body, or a public company, or received from the trust account of another lawyer are exempt as are electronic funds transfers.

Implementation of the Rules will ensure that appropriate “know your client” due diligence requirements apply to lawyers as a matter of Law Society regulation.

FAQS

Overview of Obligations

1. In what circumstances am I required to identify my client?

You must identify your client whenever you are retained to provide legal services [Rule 1021], except:

1. when you provide legal services to your employer, for example as in-house counsel;
2. when you are acting as an agent for another lawyer who has already identified the client;
3. when you are acting for a client who has been referred to you by another lawyer who has already identified the client; or
4. when you are providing legal services as part of a duty counsel program sponsored by a non-profit organization.

2. Do I have to identify anyone other than my client?

Yes, in some circumstances. You must, for example, identify any third party who is directing or instructing your client. When your client is an organization, such as a company or a public body, you must also identify the person or persons instructing you on behalf of the client. [Rule 1022 (f)(ii) and (g)]

3. What information must I obtain when identifying my client?

When you are retained by an individual you must get the person's full name, home address and telephone number, and occupation. Where applicable, you must also get their business address and telephone number. [Rule 1022]

4. What information do I have to get from a client that isn't an individual, such as a company or a public body?

When your client is an organization (a corporation, partnership, fund, trust, co-operative or unincorporated association) or a private company you must get and record its full name, its business address and its business telephone number. Except when your client is a financial institution, public body or reporting issuer, you must also, where applicable, obtain and record its incorporation or business identification number and where it was issued, and the general nature of the business. Finally, for all clients that are organizations, you must record the name, position and contact information of the person or persons instructing you in the matter. [Rule 1022]

5. I was acting for a client on a matter before the Rules came into force and the matter is continuing. Do I have to identify this client?

Not as long as the matter is the same. But if you take on a new matter for this client you must comply with the identification requirements. [Rule 1027]

6. The Rules talk about identification and about verification. What's the difference?

Identification refers to the basic information you must get about your client to know who they are whenever you are retained: their name, address etc. Verification refers to the information you must make reasonable efforts to obtain to confirm that your client is who or what they say they are.

7. In what circumstances do I have to verify my client's identity?

You are required to make reasonable efforts to verify your client's identity when you have been retained by a client to provide legal services and are engaged in or give instructions on behalf of the receipt, payment or transfer of funds. [Rule 1023]

8. Does every financial transaction trigger the verification requirement?

No. There are several exceptions included in the Rules. You do not, for example, have to verify the identity of a client that is a financial institution, public body or reporting issuer. In addition, there are a number of exemptions related to the source or nature of the funds involved. Funds paid by or to a financial institution, public body or reporting issuer are exempt, as are funds received from the trust account of another lawyer or from a police officer or public official acting in their official capacity. Funds paid or received pursuant to a court order or to pay a fine or penalty, as a settlement of a legal proceeding, or for professional fees, disbursements, expenses or bail are also exempt. Electronic funds transfers also do not trigger the verification requirements. [Rule 1024]

9. How do I verify the identity of my client?

If your client is an individual, you must look at an original identifying document that you reasonably believe to be independent and reliable, such as a government issued driver's licence, birth certificate, or where permitted, a provincial or territorial health insurance card. You must also retain a copy of the document for your records. [Rule 1025 (2)(a)]

10. How do I verify the identity of an organization such as a corporation or other company?

You are only required to verify the identity of a corporation if it is not a reporting issuer. To verify the identity of a corporation you must consult documentation that is independent and reliable such as the corporation's annual filing or a certificate of corporate status. If your client is an organization such as a corporation that is created or registered under federal or provincial law, you will need to obtain confirmation of its existence from the appropriate government registry. This confirmation should also include the name and address of the organization and, where applicable, the names of its directors and the names, addresses and occupations of everyone who owns 25 per cent or more of the organization. [Rule 1025 (2)(b)]

If your client is an organization such as a trust or partnership you will need to obtain some sort of formal record that confirms its existence as an organization. This could include a copy of the trust or partnership agreement or articles of association. It might also include GST registration information or information relating to your client's business licence. [Rule 1025 (2)(c)]

11. Do I have to identify my client or verify my client's identity before acting for the client?

In the case of an individual client you must identify the client when retained to act and must verify their identity before or when you give instructions or act on their behalf to receive, pay or transfer funds. The same is true for verifying the identity of the person or persons authorized to instruct counsel for a client that is a corporation or other organization and any third party that is an individual. [Rule 1025 (a)]

12. Do I have to verify the identity of my corporate client before I can act for them where the payment, receipt or transfer of funds is involved?

No. When your client is not an individual you have 60 days from the time you give instructions or act on behalf of your client to receive, pay or transfer funds to verify their identity. [Rule 1025 (11)]

13. What happens if after the funds have moved I am unable to verify the identity of my client in the 60-day window?

You have an obligation to take all reasonable steps to verify your client's identity. Although you have 60 days within which to comply with the verification requirements if your client is not an individual, you should satisfy yourself as to the identity of your client as early as possible in the retainer. If, despite having taken all reasonable steps, you are unable to verify your client's identity you will not be in breach of this requirement.

Client Identification – Detailed Questions

14. Another lawyer in my firm already identified the client I am acting for. Am I permitted to rely on this identification?

Yes, you may rely on the identification and verification of identity obtained by another lawyer in your firm. [Rule 1021 (2)]

15. I had a general retainer to provide legal services to a client before the Rules were enacted. I have just been asked to provide legal advice on a new matter. I have not opened a new file. Do I have to identify this client?

Yes. The question is not whether you have opened a new file since the Rules were enacted, but whether you are providing legal services on a new matter. Since the matter you are providing legal advice on arose after implementation of the Rules, you are required to identify your client. [Rule 1027]

Difficulty obtaining required information

16. The Rules require me to obtain and record my client's occupation. What do I do if the individual doesn't have an occupation or doesn't want to tell me what it is?

The Rules require you to find out what your client does. If your client doesn't want to answer the question you should explain that all lawyers are required to ask all clients for this information and that you need it to properly represent him or her. If the client refuses to provide this information, you must advise the client that you will be in breach of the Rules unless you get it and your professional obligations do not permit you to act in such circumstances. Of course, if your client is unemployed or not actively engaged in an occupation, you may simply record this and continue to act for the client.

Note that 'occupation' does not need to be 'employment'. If your client is retired, a homemaker, a volunteer caregiver or otherwise occupied, you should record that information.

17. If my client is unable to provide some of the identification information required, for example an address or a phone number, am I obliged to withdraw?

Where a client is unable to provide the information, for example where they have no address because they are homeless, or where they have no telephone number, the lawyer is not obliged to withdraw. This situation is to be distinguished from one in which the client refuses to provide the information. Where the information does not exist the lawyer is advised to make a record of that fact.

18. Working for the client of another lawyer

I have been retained by another lawyer to do work for her client. Do I have to identify her client?

Whether you have to identify the client of the other lawyer depends on two things: whether the lawyer who has retained you is licensed to practice law in a Canadian jurisdiction and whether the lawyer has complied with the identification obligations. Pursuant to the provisions of the Rules provided the lawyer is a member of the bar in one of the provinces or territories and has fulfilled his or her obligations to identify the client, you do not have to do so. [Rule 1021 (3)(b)]

19. Another lawyer has referred one of her client's to me. Do I have to identify the client?

No, you do not have to identify the client provided the other lawyer is licensed to practice law in a Canadian jurisdiction and has already identified the client. [Rule 1021 (3)(b)]

20. What are my obligations in determining whether a lawyer for whom I am acting as agent or a lawyer who has referred a client to me has taken the necessary steps to identify that client?

You are expected to exercise due diligence to satisfy yourself that the other lawyer has already identified the client. This would involve asking the other lawyer to confirm that he or she has complied with the requirements of the Rules.

21. The lawyer who referred the client to me identified the client, but I have now learned that the matter will involve a financial transaction. Do I have to verify the client's identity?

Unless the referring lawyer also verified the client's identity you must do so.

22. I have been retained by a law firm to provide a legal opinion on an issue arising in a matter for which they are acting for a client. Do I have to identify or verify the identity of that client?

Generally, unless the law firm's client is actively instructing you or the other law firm in relation to the legal opinion, you would not have to verify the identity of the law firm's client. In any event, if the law firm that has asked you to provide the legal opinion is a Canadian law firm the exemption in Rule 1021(3)(b) may apply.

Identifying Organizations and Instructing Individuals

23. Are there any exceptions to the requirement to obtain information about organizations?

Yes. When your client is a financial institution, a public body or a reporting issuer, you do not need to obtain or record the organization's incorporation or business identification number or the nature of the business activities it is engaged in. [Rule 1022 (d)]

24. The corporation I have been retained by has authorized several people to instruct counsel. Do I have to identify all of them?

No. The Rules require you to identify the individual(s) actually instructing you.

25. Although there is one senior person giving me instructions on behalf of my corporate client, I am also receiving instructions on discrete aspects of the matter from several other employees of the corporation. Do I have to identify each of them?

You must use your judgment in this situation. If you are satisfied that an individual is responsible for the instructions you are receiving from others in the corporation it may be sufficient to identify him or her only. If, however, no instructing individual has overall responsibility for the instructions given by others, you must identify each person instructing you on behalf of the corporation.

26. Do I have an obligation to look behind the assertion that an individual is authorized to instruct me on behalf of an organizational client?

The Rules do not require that you investigate such an assertion. You should always exercise prudence, however, and if you have concerns about the assertion it would be advisable to make further inquiries to satisfy yourself that the individual is indeed authorized to instruct you.

27. The Rules talk about identifying directors and shareholders. What is required?

When your client, or the party your client is representing, is an organization other than a reporting issuer, public body or financial institution (e.g. your client is a private company, partnership, or trust), and receipt, payment or transfer of funds is involved, the Rules impose special requirements. You have to make reasonable efforts to obtain and record the name and occupation of all directors, except where the client or third party beneficiary is a securities dealer. When someone owns 25 per cent or more of the organization or the shares of the corporation, you must also make reasonable efforts to obtain and record their address. [Rule 1025 (3)]

28. What are “reasonable efforts”?

In most cases asking your client for the information will suffice. It may also be appropriate to consult corporate minute books where readily available or an on-line corporate registry service.

29. If I am not able to get the names of the directors and owners may I continue to act for the client?

Yes, provided you have made reasonable efforts to obtain the information. Although not required by the Rules it would also be prudent to record the efforts you have made.

Providing Summary Advice

30. Am I required to identify a person who exercises their right to counsel upon being detained by the police and calls me from detention?

No. Whether you are acting as duty counsel or are in private practice when you are providing summary advice and are not charging the client a fee or disbursements you have not been retained within the meaning of the word and so are not caught by the scope of the Rules. This applies to calls from people in detention as well as other situations in which a lawyer provides summary advice. If, however, you undertake to represent the person, the provisions of the Rules will then apply.

31. Does a lawyer who assists an unrepresented person in court, whether on her own initiative or at the request of the court have an obligation to identify the person?

No. As long as the lawyer does not charge for fees or disbursements and the services do not extend to ongoing representation, the lawyer is not obliged to identify the person.

32. I provide summary legal advice through a “law line” service. Do I have to identify the callers to whom I give advice?

No. This is considered summary advice and is not caught by the Rules.

33. I sometimes commission or notarize a document for someone I am not otherwise retained to represent. Do I have to identify that person?

Simply notarizing or commissioning a document is not the provision of legal services and does not trigger the obligations under the Rules. If, however, you are also providing legal advice or other representation you will have to comply with the provisions of the Rules.

Verification of Identity – Detailed Questions

Exemptions

34. What is caught by the exemption for funds “paid by a financial institution”?

This exemption is meant to cover a financial institution’s own funds, for example those advanced pursuant to a mortgage or loan agreement. Cheques, whether regular or certified, bank drafts or other forms of payment are not included in the exemption. [Rule 1024 (2)]

35. Are funds received from the trust account of a lawyer in another part of Canada exempt?

Yes. This exemption applies to funds received from the trust account of a lawyer in any jurisdiction in Canada. It does not apply to funds from the trust account of a lawyer in a foreign jurisdiction. [Rule 1024 (2)(b)]

36. I am acting for the vendor in a real estate transaction. I will be receiving the proceeds of the sale from the trust account of the purchaser's lawyer and, after paying off the outstanding mortgage, will be writing a cheque for the balance to my client from my trust account. Do I have to verify my client's identity?

Although the original source of the money is exempt, because you will be writing a cheque to your client you are acting as a financial intermediary and will have to verify your client's identity. In any event, in all real estate transactions it is prudent practice to verify your client's identity.

37. I settled a matter for my client after sending a demand letter, but before commencing a proceeding. Are the settlement monies exempt?

No. For this exemption to apply, a legal action must have been commenced before a court, statutory tribunal or arbitrator. [Rule 1024 (2)(e)]

Giving Instructions in respect of funds

38. My client has come to me for tax advice in connection with some investments. Is this a situation in which I have to verify my client's identity?

The verification obligations kick in when you are "engaged in or give instructions in respect of" the movement of funds. Simply providing legal advice about a money matter does not trigger the verification obligations unless you are also giving instructions for the movement of the money.

Reasonable Efforts

39. Rule 1025(1) talks about taking "reasonable steps" to verify a client's identity. What will be considered to be "reasonable steps"?

The answer depends a lot on the context. The Rules direct lawyers to rely on reliable, independent source documents, data and information and set out a number of examples. Lawyers are expected to make a reasonable effort to obtain such documents and information.

40. My client is a private corporation. I have tried to get the stipulated information for all of the directors and shareholders who own 25% or more of my client, but haven't been successful. May I still act for the client?

The Rules require that you take reasonable steps to obtain this information. In the case of a private corporation this would probably involve asking your client and perhaps looking at the corporate minute books. Provided you have exercised due diligence in trying to obtain the information you may continue to act for the client. In these circumstances it would be prudent to record the efforts you made.

Reliable Source Documents

41. I did the legal work to incorporate a business and am now acting for that business on another matter. May I rely on documents already in my possession to verify the client's identity or must I rely on documents from a government registry?

As long as the documents are current, relying on documents in your possession is fine. The documents referred to in the Rules are examples of independent, reliable documents, but the list is not exhaustive. Appropriate documents from non-governmental sources may also be sufficiently reliable. In any event, if you incorporated the business you likely have a copy of the certificate of incorporation, which is perfectly acceptable.

42. My client is a law firm partnership that is reluctant to provide me with a copy of the partnership agreement. What should I do?

Looking at the partnership agreement is only one way to verify the client's identity. You may be able to obtain proof of the firm's identity through a government registry, such as the GST / HST Registry available on the website of the Canada Revenue Agency. [Rule 1025 (2)(c)]

43. I am acting for a trust. How do I verify its identity?

The documentation you will need to consult to verify the identity of a trust will vary depending on the nature of the trust. Examples of appropriate documentation might include the trust agreement or other documents establishing the trust, documents amending the trust, and documents identifying the trustees. [Rule 1025 (2)(c)]

Non-Face-to-Face Situations

44. I am a lawyer in Vancouver and my client is in Calgary. Are there any special rules for verifying his identity?

Yes, when your client is an individual and is in Canada, but you cannot meet with him or her, you have two options for verifying identity. Your first option is to have a commissioner of oaths or a guarantor certify that they have verified the client's identity by looking at the sort of reliable, independent documents discussed above. [Rule 1025 (4)]

45. What does that involve?

The person looking at the document will have to provide you with a legible photocopy of the document that they have signed and on which they have included their name, profession and address and have identified the type and number of the identification document provided by the client. This is called an attestation in the Rules.

46. Who can provide an attestation?

An attestation may be provided by a commissioner of oaths or a guarantor in Canada when the client is in Canada. The list of guarantors includes such professionals as lawyers, Quebec notaries, doctors, dentists, pharmacists, professional engineers and veterinarians. It also includes nurses and school principals. You must exercise due diligence in ascertaining that the person providing the attestation is a member of one of these professions. [Rule 1025 (6)]

47. What is the other method of verifying the identity of a client I cannot meet in person?

If your client is an individual and is outside of Canada or if you choose not to use a commissioner of oaths or guarantor you will have to engage an agent to conduct the verification for you. If you use an agent you must have an agreement in writing with that person and they must provide you with the information they obtain. The agent may provide the information in an attestation. [Rule 1025 (7)]

48. Must the agent be a lawyer or a notary?

Not necessarily. Any reliable person may act as an agent.

49. Do I have to pay the agent?

Nothing in the Rules require you to pay the agent. You are required to enter into a written agreement or arrangement with the agent.

50. May I rely on a faxed copy of an attestation?

Yes, but you must obtain a copy of the original for your records. It is important that all documents used to verify identity are clear and legible. If you wish, you may store the document electronically as long as you can readily produce a hard copy.

51. My client is a Canadian lawyer and the matter I am acting for him on involves a financial transaction. I am not meeting him in person. Do I have to verify his identity?

Yes. In such cases you will have to use a guarantor or a commissioner of oaths to obtain an attestation to verify your client's identity. You may also choose to engage an agent to obtain the attestation.

52. My client is not in Canada. What method should I use to verify my client's identity?

When your client is outside of Canada and you are not meeting in person, you must use an agent, pursuant to a written agreement you have with the agent, to identify and verify the identity of your client.

53. I am acting for an organization located outside of Canada. Do I have to use an agent to identify the organization?

No. You will have to use an agent to identify the instructing individual(s) if not located in Canada, but you may identify the organization through documents. [Rule 1025 (7)]

54. My client is acting for a third party. I will not be meeting that party in person. How do I verify the identity of this third party?

If the third party is an organization, you may rely on documents to identify it. To identify an individual you will have to use either the attestation method or arrange for an agent to take the necessary steps to verify the identity. Which method you may use depends on where the third party is located. If the person is in Canada, you may use either the attestation method or an agent. If located outside of Canada, you will have to rely on an agent.

Subsequent Verification

55. I have acted for an individual client before and have already verified the client's identity. Do I have to do it again?

As long as you recognize the person you do not have to verify the identity of an individual more than once. [Rule 1025 (10)]

56. My client is a corporation or a partnership. Do I have to verify its identity again if I have already done so?

No, you don't have to verify the identity of a client that is an organization if you have already done so. This exception also applies to verifying the identity of the person or persons instructing you on behalf of your corporate client and to obtaining names of directors and owners. It is, however, recommended that you exercise due diligence in ascertaining whether there has been any change in the identity or ownership of the corporation and in determining that the instructing individual is still authorized to act in that capacity. [Rule 1025 (12)]

57. I have acted for a corporate client on a number of matters and have complied with the identification requirements. Someone new is now giving me instructions on behalf of the client. Do I have to verify that person's identity?

Yes. In every case involving the receipt, payment or transfer of funds, you must verify the identity of the person instructing you unless you have previously done so.

Third Parties

58. My client is representing someone else. What are my obligations?

The Rules oblige you to identify third parties when they are directing or instructing your client, for example as a principal instructs an agent. When your client is acting for someone else in this way you must obtain the same information for that other person as you would if they were your client: their full name, home address and telephone number, their occupation, and where applicable their business address and telephone number.

The same requirement applies if the third party is an organization or company: you have to get all of the information you would get if you were representing the organization or company directly. [Rule 1022 (g)]

59. Do I have an obligation to ask my client if they are acting for a third party?

Although the Rules do not impose a specific obligation to inquire about third parties it would be prudent practice to do so.

60. My client is acting on behalf of a minor. Do I have to identify the minor?

No. A minor does not have legal capacity and so cannot be formally directing or instructing the client.

61. Are beneficiaries to an estate considered third parties within the meaning of the Rules?

The Rules oblige a lawyer to identify third parties who are directing or instructing the client. The fact that there are parties who might benefit from or be affected by the actions of the client does not trigger the obligation to identify them. Thus the beneficiaries under an estate would not be considered third parties in a situation in which an estate trustee is seeking legal advice about the administration of an estate. There may be situations, however, in which the beneficiary is instructing the client, in a case involving litigation over the settlement of an estate for example. In that case the beneficiary would have to be identified as a third party.

62. I am acting for a developer of a new condominium project and am holding in trust the monies paid as deposits by the purchasers of the condo units. Do I have to identify the purchasers?

No. In that case the developer is not being directed by the purchasers and is not acting for or representing them.

63. I am acting for a lender and collecting mortgage payments on her behalf. Do I have to identify or verify the identity of the person making the payments?

No. You must verify the identity of your client, but not the borrower.

64. I have been retained by a joint venture. Do I have to identify and verify the identity of the parties to the joint venture?

Yes. By definition a joint venture is not an independent legal entity, but rather a collection of organizations that have joined together for some common purpose. In such a case, each of the parties to the joint venture would be considered to be directing the affairs of the joint venture.

65. I am acting for a living trust that makes ongoing disbursements to the beneficiaries of the trust. Do the identification and verification obligations apply to these beneficiaries?

Whether you must identify and verify the identity of beneficiaries to a trust will depend on the facts of the case. If the beneficiaries are directing the client they will have to be identified and, where the matter involves a financial transaction, you will also have to verify their identity.

66. Does a lawyer retained by a financial institution to do work for a client of the financial institution have to identify that client?

Again, it depends on the facts of the case. If the financial institution's client is instructing or directing the institution, the lawyer must identify and in appropriate cases verify the identity of the client. Where the client is not directing the institution, however, the financial institution is the client and any identification requirements relate to it.

67. I am acting for a union on a grievance. Do I have to identify the grievor?

No. Except in very rare cases it is the union that has carriage of a grievance. The grievor, while clearly an interested party, is not instructing the union and as such is not a third party within the meaning of the Rules. This would be true even in the case of a group or policy grievance where a large number of union members have a stake in the outcome of the matter. Where a grievor does have carriage of the grievance and is instructing the union as to how to proceed, the obligation to identify that person and, in appropriate cases, to verify their identity, would apply.

68. I have been retained by an insurance company to act for it in relation to a subrogated litigation claim. Do I have to verify the identity of the insurance company's client, the insured, as well as the insurer?

At the outset of the retainer, only the identification requirements would apply. Assuming that the insurer has, by operation of law or contract, succeeded to the rights of its insured in relation to the claim, the Rules require you to identify the insurance company only. If, however, the insured also has a claim which you are bringing concurrently with the subrogated claim, you must also identify the insured. In the absence of an applicable exemption, verification would be required in the event of a settlement payment made prior to the filing of a statement of claim or other formal commencement of legal proceedings (such as an arbitration).

69. What are the obligations of insurance defence counsel, when defending an insured on the instructions of an insurer pursuant to a liability policy?

Whether you are in-house with an insurer or outside counsel, you act for both the insurer and insured when you are defending a claim against an insured under a liability policy. If you are in-house counsel for the insurance company, you need not identify or verify the identity of the insurance company, but you are required to identify the insured. If you are outside counsel, you are required to identify both clients. Regardless of your position, if and when settlement funds may become payable, you should consult the Rules with regard to whether verification is necessary or whether an exemption might apply. If the matter is settled or a judgment is rendered after the claim has been filed, you are not required to verify the identity of your clients. If settled prior to filing a claim, however, the Rules may require you to verify their identity. The status of the insurance company (i.e., if it is a financial institution or reporting issuer) may determine if the insurer is exempt from the verification process.

70. I am acting for the vendor in a real estate transaction. My client has directed me to pay the proceeds of the sale to another party. Do I have to verify the identity of that party?

Unless the vendor is acting for or representing the other party, there is no obligation to verify that party's identity.

71. I am sometimes retained by the Attorney General to act as agent in the enforcement of support orders from other jurisdictions. This involves having a support order issued in another jurisdiction confirmed in my jurisdiction to facilitate collection. Do I have to identify the beneficiary of the order?

No. Your client is the Attorney General that has retained you. In such a case the beneficiary of the support order is neither directing nor instructing the Attorney General and is not considered a third party for the purposes of the Rules.

Documenting Identification and Verification

72. Do I have to document the steps I take to verify my client's identity?

Yes. The Rules require that you obtain a copy of every document you rely on to verify a client's identity. You must also record the information you obtain to identify your client and any information and copies of documents you rely on to identify the directors and owners of 25 per cent or more of any client that is a company or other organization.

73. Do I have to keep identification and verification information in a separate file or can I keep it with my client files?

The information and documents obtained to identify your client may be kept in your client file. There is no need to maintain a separate file.

74. Can I keep identification and verification information in electronic form?

Yes, as long as a paper copy can be readily produced.

75. How long do I have to retain client identification and verification information?

You have to keep the information for the longer of your professional relationship with the client, as long as is necessary to provide service to the client, and six years following completion of the work the client retained you to do for them. [Rule 1026]

76. Do I have to verify the identity of clients I was already working for when these Rules came into force?

The identification and verification rules do not apply to matters for which you were already retained when the Rules were enacted, but they do apply to all new matters. That means that you will have to take the necessary steps to identify all clients for any matters for which you are retained after the Rules come into force even if you have acted for the client in the past or have a general retainer agreement with the client. The Rule requiring that you withdraw from representing a client if you would be assisting illegal conduct applies to all clients and all matters, regardless of when you were retained. [Rule 1027]

77. What, if anything, do I need to record when I am relying on an exemption to the identification or verification requirements?

The Rules do not oblige you to make any record when you are relying on an exemption. Bearing in mind that if asked by your Law Society, you must be able to demonstrate that you relied on a valid exemption, it would be helpful to note the reason identification or verification was not required.

Other

78. My client was very evasive when I tried to get the necessary information to identify him and to verify his identity. What do I do?

If you reasonably suspect that your client is trying to get you to assist him in something illegal or dishonest you have a duty to refuse to act for him in that matter. The duty applies whether your suspicions are aroused during the identification and verification process or at any time during your retainer.

79. I need advice about a specific situation that is not addressed in these questions. What should I do?

If you have any unanswered questions or concerns about compliance with the Rules you should contact the Law Society.