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[Part K added September, 2001]
 [Part D(4) amended February 5, 2004]
 [Part C 4. added Oct., 2007]; [Amended Dec. 7, 2007]
 [Part F amended December 5, 2008]
 [Part D(4) amended May 1, 2009]
 [Part A(3), C(1) and (2) amended; Part L added September 17, 2009]
 [Part K (1), (2) and (3) amended February 11, 2010]
 [Part D (4) amended April 15, 2010]
 [Part A (1) and C (1) amended June 17, 2010]
 [Part C(1) amended; C(4) deleted April 14, 2011]
 [Part A(2) amended October 21, 2011]
 [Part C(1) amended April 27, 2012]
 [Part A(1) amended October 26, 2012]
 [Part C(1) amended April 25, 2013]
 [Part E amended to remove duplicate categories of law professors, November 1, 2014]
 [Part A(1) and (2); Part K(1), (2) and (3); and Part L(1) amended, October 16, 2015]

PART 13

Accounting

A. Definitions

Definitions

900. In this Part,

“**cash**” means coins referred to in section 7 of the *Currency Act*, and notes issued by the Bank of Canada pursuant to the *Bank of Canada Act*, that are intended for circulation in Canada and coins or bank notes of countries other than Canada;

“**client**” includes a person or unincorporated body on whose behalf a member receives funds in connection with the member’s practice of law;

“**currency**” includes current coins, government or bank notes of Canada or any other country;

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

“**general account**” means an account in a savings institution maintained by a member into which is deposited funds received by the member in connection with the member’s practice of law, which are not trust funds;

“**mixed trust account**” means an account referred to in section 78(1) of the *Act*, into which is deposited money received or held in trust for or on account of clients generally;

“**money**” includes cash, cheques, drafts, credit card sales slips, post office orders and express and bank money orders;

“**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, or
- (c) 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* or an agent of the organization,

“**savings institution**” means:

- (a) the Bank of Canada;
- (b) a bank included in Schedule I or II to the *Bank Act* (Canada) which is insured by the Canada Deposit Insurance Corporation;
- (c) a credit union incorporated, continued or registered under the *Credit Union Act, 1985*; or
- (d) a trust company which:
 - (i) is incorporated under the *Trust Companies Act* (Canada); or
 - (ii) has net assets in excess of \$10,000,000;

“**separate trust account**” means an interest-bearing trust account or a savings, deposit, investment or similar form of account in a savings institution in Saskatchewan;

“**trust funds**” means any monies received by a lawyer, in his/her capacity as a lawyer, which are not intended to immediately become property of the lawyer and include:

- (a) funds from a client for services to be performed or for disbursements to be made on behalf of the client;
- (b) funds which belong in part to a client and in part to the member, and it is not practicable to split the funds; or
- (c) funds received from or held on behalf of a third party which relate to a transaction in which a client is involved, but does not include funds which are to be remitted to any government by way of taxes or employee payroll deductions;

but does not include:

- (d) money received on account of the member’s fees or disbursements respecting services already performed and for which a written billing has been rendered and delivered or for which a written billing is rendered and forwarded forthwith after receipt of the money.

[Rule 900 amended September 16, 1994; Rule 900(d) added June 6 & 7, 1996]
 [Rule 900(d) in *Trust Funds* deleted October, 2001]
 [Rule 900 amended May, 2002 and October, 2002]
 [Rule 900 amended February 10, 2005 and June, 2005]
 [Rule 900, definition "cash" amended June 11, 2009]
 [Rule 900 "firm" and "member" definitions deleted May 2, 2014, effective July 1, 2014]
 [Rule 900 "trust funds" definition amended to add item (d), November 27, 2015]

B. Delegation and Accountability

Member Remains Personally Responsible

901. (1) A member who:

- (a) is authorized by the sole proprietorship, partnership or association through which the member practises law to open, maintain or deal with funds which are in a trust or general account; and
- (b) delegates to another person any of the duties or responsibilities assigned to that member under this Part

remains personally responsible to ensure that those duties and responsibilities are carried out.

(2) A firm of members, an association of members or a professional corporation may maintain a trust or general account in the name of the firm, association or professional corporation, however, the individual members practicing through the firm, association or professional corporation remain personally responsible to ensure compliance with these Rules.

(3) At least one signatory of any cheque drawn on a trust account must be a member.

[next rule is Rule 909]

C. Receipt of Trust Funds

Cash Transactions

909. (1) A member shall not receive or accept from a person, cash in an aggregate amount of \$7,500 or more Canadian dollars in respect of any one client matter or transaction.

(2) For the purposes of this Rule, when a member receives or accepts cash in a foreign currency from a person the member shall be deemed to have received or accepted the cash converted into Canadian dollars at:

- (a) the official conversion rate of the Bank of Canada for the foreign currency as published in the Bank of Canada's Daily Noon Rates that is in effect at the time the member receives or accepts the cash, or
- (b) if the day on which the member receives or accepts cash is a holiday, the official conversion rate of the Bank of Canada in effect on the most recent business day preceding the day on which the member receives or accepts the cash.

(3) Paragraph 1 applies when a member engages on behalf of a client or gives instructions on behalf of a client in respect of the following activities:

- (a) receiving or paying funds;
 - (b) purchasing or selling securities, real properties or business assets or entities;
 - (c) transferring funds by any means.
- (4) Despite paragraph 3, paragraph 1 does not apply when the member receives cash
- (a) from a financial institution or public body;
 - (b) from a peace officer, law enforcement agency or other agent of the Crown acting in his or her official capacity;
 - (c) pursuant to a court order, or to pay a fine or penalty, or
 - (d) in an amount of \$7,500 or more for professional fees, disbursements, expenses or bail, provided that any refund of \$1,000 or more out of such receipts is also made in cash. Every member who pays a cash refund pursuant to subrule 909. (4)(d) must obtain a signed acknowledgement of the payment from the person receiving the refund showing the date, amount, client reference and name of the person who received the funds.

(5) Every member, in addition to existing financial recordkeeping requirements to record all money and other property received and disbursed in connection with the member's practice, shall maintain:

- (a) a book of original entry identifying the method by which money is received in trust for a client, and
- (b) a book of original entry showing the method by which money, other than money received in trust for a client, is received.

(6) Every member who receives cash in excess of \$500 for a client shall maintain, in addition to existing financial recordkeeping requirements, a book of duplicate receipts, with each receipt identifying the date on which cash is received, the person from whom cash is received, the amount of cash received, the client for whom cash is received, any file number in respect of which cash is received and containing the signature authorized by the member who receives cash and of the person from whom cash is received.

(7) The financial records described in paragraphs 5 and 6 may be entered and posted by hand or by mechanical or electronic means, but if the records are entered and posted by hand, they shall be entered and posted in ink.

(8) The financial records described in paragraphs 5 and 6 shall be entered and posted so as to be current at all times.

(9) A member shall keep the financial records described in paragraphs 5 and 6 for at least the six year period immediately preceding the member's most recent fiscal year end.

[Rule 909 added February 10th, 2005]

[Rule 909 amended June, 2005; December, 2005]

[Rule 909 (4)(d) and (6) amended June 11, 2009]

Deposit of Trust Funds

910. (1) Subject to subrule (2), a member who receives trust funds shall forthwith deposit the funds into a mixed trust account described in Rule 911.

- (2) (a) A member who receives trust funds with written instructions as to where they are to be placed shall first place the funds into a mixed trust account and then place the funds in accordance with appropriate instructions, but a member may not hold or invest monies on behalf of a client outside the Province of Saskatchewan unless the member's primary practice is outside of Saskatchewan, and the trust funds are handled in accordance with the Rules of the Law Society of the member's primary practice, and the monies are received pursuant to that practice.
- (b) Subsection (a) does not prevent a member from forwarding monies pursuant to a client's written instructions or obligations in furtherance of a specific transaction, where such monies are thereafter no longer held in trust on behalf of the client.

(3) Law firms may receive trust and general receipts by credit or debit cards subject to the following conditions:

- (a) trust receipts shall be deposited expeditiously and directly into a pooled trust account;
- (b) general receipts shall be deposited expeditiously and directly into a general account;
- (c) the payor, client name, and file number shall be recorded on the merchant slip;
- (d) the word "Trust" shall be recorded on the merchant slip for all trust receipts;
- (e) the receipt shall be recorded in the deposit book and the merchant slip shall be attached to the deposit slip in the deposit book.

All service charges and discounts, including those related to trust receipts, are the responsibility of the member and shall be withdrawn from the law firm general account.

(4) A member who receives trust funds which belong in part to a client and in part to a member shall:

- (a) deposit them into a mixed trust account; and
- (b) as soon as it is practicable to split the funds, withdraw the member's funds from the trust account.

(5) A member or law firm shall be permitted to handle their own legal transactions through trust as long as the money is handled in the normal course of a legal file and the money is paid out expeditiously when the matter is concluded.

(6) Active members whose primary practice is outside Saskatchewan are not required to hold trust monies in Saskatchewan, however, must comply with the trust account rules in the jurisdiction in which they practice.

(7) In this Rule:

- (a) the cities of Lloydminster, Alberta, and Flin Flon, Manitoba, are deemed to be in Saskatchewan and the deposit of trust monies in a savings institution located in those two cities is deemed compliance with Rule 911 and Rule 912;
- (b) Alberta or Manitoba credit unions located in Lloydminster, Alberta or Flin Flon, Manitoba, which are incorporated, continued or registered under the Alberta or Manitoba equivalent to *The Credit Union Act (1985)* are deemed to be savings institutions.

[Rule 910 amended June 8, 1994]

[Rule 910(3) added June, 2004]

[Rule 910 (1), (2)(a), (3) and 4(a) amended; (5) added; (6) and (7) amended to reflect numbering change June 11, 2009]

Mixed Trust Account

911. (1) A mixed trust account referred to in Rule 910 shall be in a savings institution in Saskatchewan, and shall be:

- (a) an account which is readily available to be drawn upon by the member, and in respect of which the member receives cancelled cheques or cheque images in a form approved by the Law Society, and bank statements each month;
 - (b) an account in respect of which the savings institution has agreed with the member to pay interest to the Law Foundation in accordance with subrule (2);
 - (c) kept in the name of:
 - (i) the individual member;
 - (ii) the firm of which the individual member is a partner; or
 - (iii) the member or firm by which the individual member is employed; and
 - (d) designated as a "trust" or "client" account on the records of the savings institution and of the member;
 - (e) insured by the Canada Deposit Insurance Corporation or the Credit Union Deposit Guarantee Corporation.
- (2) A member who opens or maintains a mixed trust account shall:
- (a) instruct the savings institution in writing to remit to the Law Foundation at least quarterly the interest earned on the account; and
 - (b) if the account is opened or maintained at a bank or trust company, notify the institution in writing that the account is a trust account which will contain the funds of more than one client.

(3) Subject to subrule (4) and Rule 971(1), a member shall not deposit into a mixed trust account any funds which are not trust funds.

(4) A member shall pay out of his or her own funds any service fees or charges levied by the savings institution arising out of the operation of a mixed trust account, and for that purpose may maintain in a mixed trust account a sufficient amount of the member's own funds to meet reasonably anticipated service fees or charges.

[Rule 911(e) added February 6, 1997]

[Rule 911(1)(a) amended June 11, 2009]

Separate Interest Bearing Trust Account

912. (1) A separate interest bearing trust account shall be designated as a "trust" or "client" account on the records of the savings institution and of the member, and shall be:

- (a) kept in the name of:
 - (i) the individual member;
 - (ii) the firm of which the individual member is a partner; or
 - (iii) the member or firm by which the individual member is employed; and
 - (b) kept in the name of the trust; or
 - (c) identified by a number which, from an inspection of the member's books, records and accounts, will identify the client;
 - (d) unless otherwise directed in writing by the client, insured by the Canada Deposit Insurance Corporation or the Credit Union Deposit Guarantee Corporation.
- (2) A member who opens or maintains a separate interest bearing trust account shall instruct the savings institution in writing to deposit into the account when due the interest earned on the account.
- (3) Interest earned on a separate interest bearing trust account shall be recorded in the trust accounting records of the firm no later than 30 days after being paid into or added to the separate interest bearing trust account balance by the financial institution.
- (4) Trust funds for deposit to a separate interest bearing trust account shall first be deposited into a mixed trust account of the firm and then paid to the separate interest bearing trust account.
- (5) Trust funds withdrawn from a separate interest bearing account shall only be transferred to a mixed trust account of the firm and then paid out.
- (6) Subject to Rule 971(1), a member shall not deposit into a separate trust account any funds which are not trust funds.

[Rule 912(d) added February 6, 1997]

[Rule 912(1) and (1)(a)(iii), and (2) amended; (3), (4) and (5) added; item (6) amended to reflect numbering change, June 11, 2009]

[Rule 913 Written Record of Receipt and Disbursement of Trust Funds deleted, June 11, 2009]

[next rule is Rule 920]

D. Receipt of Non-Trust Funds

Types of Funds which may be Deposited into a Member's General Account

920. A member may deposit into a general account only those funds received in connection with the member's practice of law, which are not trust funds.

Types of Transactions which must be Recorded in Non-Trust Books, Records and Accounts

921. (1) A member shall record in the member's non-trust books, records and accounts:
- (a) funds received from the practice of law which belong entirely to the member or to other persons associated with the member in the practice of law;
 - (b) funds received by the member on account of fees for services already performed; and
 - (c) funds received to reimburse the member for disbursements already made or expenses already incurred on behalf of a client.
- (2) A member who receives funds under subrule (1) shall forthwith deliver a bill for the funds received, containing sufficient particulars to identify the services performed and disbursements incurred.

[Rule 921(2) amended; item (3) deleted, June 11, 2009]

[Rule 921(1) amended to eliminate reference to general retainers, November 27, 2015]

[next rule is Rule 930]

Part 18

Contingent Fee and Retainer Agreements

Definitions

1500. In this Part

“**contingent fee agreement**” means an agreement which provides that a member’s remuneration for services to be provided for or on behalf of a client is contingent, in whole or in part, on the successful disposition of the matter in respect of which the services are provided;

“**retainer agreement**” means an agreement which provides that a member is retained by a client to act on the client’s behalf for one or more matters or generally for a specified period of time for a sum of money paid by the client in advance of any services performed by the lawyer.

[Rule 1500 amended April 15, 1994]

[Rule 1500 “retainer agreement” definition amended November 27, 2015]

Contents of Contingent Fee Agreements

1501. (1) Every contingent fee agreement entered into by a member shall be in writing.
- (2) A member who enters into a contingent fee agreement shall ensure that the agreement:
- (a) is fair and the member’s remuneration provided for in the agreement is reasonable, under the circumstances existing at the time the contract is entered into;
 - (b) states that any party to the agreement may apply to the Court under section 64(3) of the *Act* for a determination as to whether or not the agreement is fair and reasonable;
 - (c) does not purport to exclude the member’s liability for negligence;
 - (d) does not purport to require the member’s consent before a client’s cause may be abandoned, discontinued or settled; or
 - (e) does not purport to prevent the client from changing solicitors before the conclusion of the retainer.
- (3) Every contingent fee agreement shall be signed by each party to it, and the member shall deliver a copy of the agreement to each such party.

Prohibited Agreements

1502. A member shall not enter into a contingent fee agreement:
- (a) for services which relate to a child custody or access matter; or
 - (b) for services which relate to a matrimonial dispute, unless the form and content of the agreement have been approved by the Court.

Fees Payable under Contingent Fee Agreements

1503. A member who prepares a bill for fees earned and disbursements and other expenses charged under a contingent fee agreement shall ensure that the total remuneration payable to the member:

- (a) does not exceed the remuneration provided for in the agreement; and
- (b) regardless of the remuneration provided for in the agreement, is reasonable under the circumstances existing at the time the bill is prepared.

[Rule 1503 amended December 2, 2010]

Retainer Agreements

1504. (1) Every retainer agreement entered into by a member shall be in writing.
- (2) A member who enters into a retainer agreement shall ensure that the agreement:
- (a) specifies in clear and unequivocal language the term of the agreement, whether or not any further fees or disbursements will be charged, what specific matters are covered by the agreement; and
 - (b) does not mislead clients in any way with respect to the services covered by the agreement.

(3) Funds received pursuant to a retainer agreement are considered trust funds as defined in Rule 900 and must be treated as such, in accordance with Part 13 of these Rules.

[Rule 1504 amended April 15, 1994]

[Rule 1504(2)(a) amended; (2)(c) deleted; (3) amended November 27, 2015]

Application of this Part

1505. This Part applies only to agreements entered into on or after the date on which the individual sections come into effect.

[Rule 1505 added April 15, 1994]

[next rule is Rule 1600]