

CLIENT IDENTIFICATION AND VERIFICATION RULES

INTRODUCTION

The Rules require members to follow certain client identification and verification procedures when retained by a client. The Rules also require members 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 member provides professional services to a client. These requirements call for members to obtain and record basic identification information about individual or organizational clients.

The identity *verification* requirements are triggered where the member 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. Members must obtain information that confirms the identity of their client. A number of exceptions are included. For example, funds paid to the member by a financial institution, public body, or a public company, or received from the trust account of another member are exempt as are electronic funds transfers.

Implementation of the Rules will ensure that appropriate “know your client” due diligence requirements apply to members 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 1541], 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 member who has already identified the client;
3. when you are acting for a client who has been referred to you by another member 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 1542(2)]

3. What information must I obtain when identifying my client who is an individual?

When you are retained by an individual you must obtain and record 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 1542(1)(a)]

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 you are retained by an organization (a corporation, partnership, fund, trust, co-operative or unincorporated association) you must obtain and record the client's full name, business address, business telephone number, the general nature of the type of business or activities engaged in by the client, and the name and position of and contact information for the individual who is authorized to provide and give instructions to the member. Where applicable, you must also get the incorporation/business identification number and the place of issue of the incorporation/business identification number. [Rule 1542(1)(b)]

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 1547]

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

Identification refers to the basic information you must record about your client to know who they are whenever you are retained: their name, address etc. Verification refers to the information you must 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 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 1543]

8. Does every financial transaction trigger the verification requirement?

No. You do not have to verify the identity if the client is a financial institution, public body or reporting issuer.

There are also a number of exemptions related to the source or nature of the funds involved including:

- funds paid by or to a financial institution, public body or reporting issuer
- funds received from the trust account of another member
- funds received from a peace officer, law enforcement agency or other public official acting in an official capacity
- funds paid or received to pay a fine or penalty or bail
- funds paid or received for professional fees, disbursements or expenses

Electronic funds transfers also do not trigger the verification requirements. [Rule 1544]

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 documentation (ex: driver's licence, passport, secure certificate of Indian Status, etc.), credit file, or by using the Dual Process Method outlined in our sample forms found [here](#). You must also retain a copy of the document(s) for your records. [Rule 1545 (6)(a)]

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

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. The member should also make reasonable efforts to obtain and record the names and addresses of all persons who own, directly or indirectly, 25 per cent or more of the organization (if applicable), the names and addresses of all trustees and all known beneficiaries (if applicable) and information establishing the ownership, control and structure of the organization. [Rule 1545(7)]

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 1545(11)]

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?

When your client is an organization you have 30 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 1545(13)]

13. What happens if after the funds have moved I am unable to verify the identity of my client in the 30-day window?

You have an obligation to verify your client's identity. Although you have 30 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.

Client Identification – Detailed Questions

14. Another member 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 member in your firm. [Rule 1541(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 1547]

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 members 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. If your client is unemployed or not actively engaged in an occupation, you may 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 member 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 member is advised to make a record of that fact.

Working for the client of another member

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

Whether you have to identify the client of the other member depends on two things: whether the member who has retained you is licensed to practice law in a Canadian jurisdiction and whether the member has complied with the identification obligations. Pursuant to the provisions of the Rules provided the member 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 1541(3)(b)]

19. What are my obligations in determining whether a member for whom I am acting as agent or a member 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 member has already identified the client. This would involve asking the other member to confirm that he or she has complied with the requirements of the Rules.

20. The member 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 member also verified the client's identity you must do so.

21. 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 1541(3)(b) may apply.

Identifying Organizations and Instructing Individuals

22. 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 1544(a)]

23. 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.

24. 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.

25. 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.

26. 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 must obtain and record the names of all directors of the organization, other than an organization that is a securities dealer. You must also make reasonable efforts to obtain and record the name and address of all persons who own, directly or indirectly, 25 per cent or more of the organization of the shares of the organizations. [Rule 1545(7)]

27. 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. You are expected to keep a record, with the applicable date, that sets out the information obtained.

28. 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.

Providing Summary Advice

29. 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 member provides summary advice. If, however, you undertake to represent the person, the provisions of the Rules will then apply.

30. Does a member 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 member does not charge for fees or disbursements and the services do not extend to ongoing representation, the member is not obliged to identify the person.

31. 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.

32. 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

33. 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 1544(b)]

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

Yes. This exemption applies to funds received from the trust account of a member in any jurisdiction in Canada. It does not apply to funds from the trust account of a member in a foreign jurisdiction. [Rule 1544(b)(ii)]

35. 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 member 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.

Giving Instructions in respect of funds

36. 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

37. 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. If despite your best efforts you are unable to obtain information about the directors, shareholders and owners of the organization, you must then take reasonable measures to ascertain the identity of the most senior managing officer of the organization and assess the organizational client's activities in the context of any risks that the transaction(s) may be part of fraudulent or illegal activity. Provided you have exercised due diligence in trying to obtain the information you may continue to act for the client. You are expected to keep a record, with the applicable date, that sets out the information obtained.

Reliable Source Documents

38. 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.

39. 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 1545(6)(f)]

40. 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 1545(6)(f)]

Non-Face-to-Face Situations

41. I am a member in Regina and my client is in Calgary. Are there any special rules for verifying client 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. You can use the credit file method or the dual ID process method. [Rule 1545(6)(a)(ii)&(iii)]

42. What does that involve?

Credit File Method – Verify the individual's identity by comparing the individual's name, date of birth and address information to information in a Canadian credit file that has been in existence for at least 3 years. The information must be received directly from a Canadian credit bureau or a third-party authorized by a Canadian credit bureau. You cannot rely on a copy of the credit file if it is provided by the individual. If any of the information does not match, you will need to use another method to verify client identity.

Dual ID Process Method – Please review the guide and sample forms on our website if using this method. You will need to complete 2 of the 3 categories by referring to information from 2 independent, reliable, sources. Each source must be well known and reputable (e.g., federal, provincial, territorial and municipal levels of government, crown corporations, financial entities or utility providers). Any document must be an original paper or original electronic document. Documents cannot be photocopied, faxed or digitally scanned. The information referred to must be valid and current.

43. When can I use an agent and what is involved?

An agent can be utilized at any time. If your client is an individual and is outside of Canada, or if the above 2 methods do not work out to produce sufficient documentation, 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. Sample forms for the agreement with the agent and the verification of the information obtained by the agent can be found [here](#) on our website. [Rule 1025(7)]

44. Must the agent be a member or a notary?

Not necessarily, any reliable person may act as an agent. It is recommended that the member seek such professionals as lawyers, Quebec notaries, doctors, dentists, pharmacists, professional engineers, veterinarians, nurses and school principals to use as an agent.

45. 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.

46. May I rely on a faxed copy of the verification documents from the agent?

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 legible hard copy.

47. My client is a Canadian member 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 the Credit File Method, the Dual ID Process Method (See #42 above) or you may also choose to engage an agent to obtain the verification documents.

48. 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. [Rule 1545(2)]

49. 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 1545(7)]

50. 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 Credit File Method or the Dual ID Process Method or arrange for an agent to take the necessary steps to verify the identity.

Subsequent Verification**51. 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 and have no reason to believe the information or the accuracy of it has changed, then you do not have to verify the identity of an individual more than once. [Rule 1545(12)]

52. My client is an organization (corporation, partnership, etc.). 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 1545(14)]

53. 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

54. 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 1542(2)]

55. 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.

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

Yes. If the minor is under 12 years of age you must verify the identity of one of the child's parents or guardians. If the child is at least 12 years of age but not more than 15 years of age you can rely on any two of: information from a reliable source that contains the individual's parent/guardian's name and address, information from a reliable source that contains the individual's parent/guardian's name and date of birth, and/or information containing the individual's parent/guardian's name that confirms the parent or guardian has a deposit account, credit card, or other loan amount with a financial institution. If the child has a passport that can be used to ascertain their identity directly; if not, you can rely on the parent's driver's license to verify their common address, and use the child's birth certificate to verify the child's name and date of birth.

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

The Rules oblige a member 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.

58. 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.

59. 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.

60. 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.

61. 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.

62. Does a member 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 member 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.

63. 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.

64. 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).

65. 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.

66. 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.

67. 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

68. 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.

69. 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.

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

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

71. 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 1546(3)]

72. 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 1547]

73. 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.

Source of Funds

74. There is a new requirement of me to obtain information about the source of the funds relating to the retainer. What does this mean and how do I fulfill this obligation?

You are required to inquire about the expected source and origins of the funds related to the legal services to be provided. This may be apparent from the information obtained from the client for the retainer. You should make sufficient inquiries to assess whether there is anything that suggests the proposed transaction is inconsistent with the client's apparent means and the circumstances of the transaction. You should also retain supporting documents that relate to how you determined the source of funds.

Monitoring

75. There is a new requirement of me to monitor the relationship. What does this mean and how do I fulfill this obligation?

It may be useful to conceive of your monitoring requirement as a periodic check-in with a client with whom you have an established, long-term relationship. This means that during the retainer you must periodically assess whether the client's information in respect of their activities and the source of their funds are consistent with the purpose of the retainer and the information about the client that you have obtained. The monitoring requirement may be triggered when your client provides you with new facts about their activities or source of funds, or when you are faced with unexpected client behavior. You should use your discretion in defining the frequency of the monitoring. In order to fulfill this obligation you should make a note to file regarding your inquiries and keep copies of documents that arise from your inquiries. Further information on this requirement can be found [here](#).

Other

76. 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 roused during the identification and verification process or at any time during your retainer.

77. 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 Trust Safety (306)569-8242.