

## Additional Guidance – Monitoring Requirement

Client identification and verification is an ongoing professional requirement.

### Monitoring Rule

Rule 1549 of the [Law Society of Saskatchewan Rules](#) provides as follows:

1549 During a retainer with a client in which the member is engaged in or gives instructions in respect of any of the activities described in Rule 1543, the member must:

- (a) monitor on a periodic basis the professional business relationship with the client for the purposes of:
  - (i) determining whether the following are consistent with the purpose of the retainer and the information obtained about the client as required by this Rule:
    - (A) the client's information in respect of their activities;
    - (B) the client's information in respect of the source of money described in Rule 1543; and
    - (C) the client's instructions in respect of transactions.
  - (ii) assessing whether there is a risk that the member may be assisting in or encouraging fraud or other illegal conduct; and
- (b) keep a record, with the applicable date, of the measures taken and the information obtained with respect to the requirements of subrule (a) above.

### Why is Monitoring Required?

When you act for a client for a long period of time, there is an increased risk that the client's background, instructions, and/or the source of money may change. Rule 1549 requires you to monitor your professional relationship with the client on a periodic basis. You must determine whether the client's information, both in respect of their activities and the source of the money, as well as the client's instructions, is consistent with the purpose of the retainer and the information retained during the client identification and verification process.

The process of properly monitoring clients will help you to reduce the risk of assisting your clients in fraud or other illegal conduct. Rule 1550 requires you to withdraw from representing a client if you know or ought to know that you would be assisting in fraud or other illegal conduct.

The *Law Society of Saskatchewan Codes of Professional Conduct* in sections 3.2-7, and 3.2-8 and the commentaries also reflect these requirements.

### What is Required of You?

Rule 1549 requires you to know your client on an ongoing basis. This means:

1. exercising vigilance about a client relationship that involves a receipt, transfer, or payment of funds;

2. assessing whether there is a risk that you may be assisting in fraud or other illegal conduct;
3. paying attention to red flags (see below); and
4. keeping a record of your inquiries.

## What Does Monitoring Mean?

Monitoring means you must:

- Occasionally, check in with your client with whom you have a long-term established relationship.
- Follow up if circumstances have changed. For example, this might include:
  - obtaining additional information about your client (e.g., occupation, assets, information available through public databases, internet, etc.);
  - obtaining information on the source of money or the source of wealth of your client;
  - obtaining information on the reasons for intended or conducted transactions;
  - gathering additional documents, data, or information, or taking additional steps to verify the documents obtained;
  - flagging certain activities that appear to deviate from expectations; or
  - reviewing transactions against the usual processes and procedures for such transactions relevant to the legal work for which you were retained.
- Make a note to file regarding your inquiries and keep copies of documents that arise from your inquiries.

## How Often am I Required to Monitor?

There is no set time frame. You must use your discretion depending on the client, the nature of the work, the anticipated duration of the retainer, and the services provided.

## Red Flag Examples

Please note that this list of red flags is not exhaustive, and those involved in criminality are continuously changing their strategy to avoid detection. The presence of a red flag indicator is not necessarily the basis for the suspicion of money laundering or terrorist financing, as a client may be able to provide a legitimate explanation. You must use professional judgment and your discretion when complying with Rule 1549. Examples of red flags can include when a client:

- is overly secretive about where money is coming from, why they are doing the transaction this way, what the big picture is, etc.
- is using an agent without a good reason
- is actively avoiding personal contact without good reason
- is a business entity which cannot be found on the internet and/or uses an email address with an unusual domain part (Hotmail, Gmail, Yahoo, etc.), especially if the client is otherwise secretive
- is a known criminal or is known to be associated with one
- attempts to disguise the real owner or parties to the transaction
- is prepared to pay higher fees than usual, without legitimate reason
- has changed lawyers multiple times without a reasonable explanation
- makes unexplained changes and instructions, especially at the last minute

For additional information, please see the Federation of Law Societies of Canada [Guidance on Monitoring Obligations](#).



If you have any further questions or concerns, please contact the Law Society of Saskatchewan at [auditor@lawsociety.sk.ca](mailto:auditor@lawsociety.sk.ca).