

# Client ID & Verification - FAQs archive

## Frequently asked questions – Archive

*(Rules 3-98 to 3-109, current to September 1, 2019)*

*Caution: The FAQs below are out of date and are archived for research purposes only. Refer to [Client ID & Verification](#) on the website for information on the current rules.*

### Identification versus verification

#### 1. The Rules talk about identification and about verification. What's the difference between them?

Identification refers to the basic information you need to obtain and record about your "client" to know who they are when you are retained to provide legal services, including the client's name, address, telephone number and occupation. You are required to make reasonable efforts to obtain and record this information.

Verification refers to the information you need to obtain to confirm that your client is who or what they say they are. Verification is required only when you are acting for a client or giving instructions on behalf of a client regarding the receiving, payment or transferring of "money", i.e. a "financial transaction".

When you are verifying a client's identity, you must take reasonable steps to obtain and retain a copy of every document used to verify the client's identity.

Remember that "client", "money", and "financial transaction" are defined in Rule 3-98. These terms have a broader meaning than in the ordinary use of these terms. If your client represents or acts on behalf of a third party in relation to obtaining your services, you must generally collect the same information for the third party as if that party had directly retained you.

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### Identification

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

You must make reasonable efforts to identify your client whenever you are retained to provide legal services, except when:

- (a) you are in-house counsel providing legal services on behalf of your employer;
- (b) you act as an agent for another lawyer or an interjurisdictional lawyer who has confirmed to you that they have already complied with Rules 3-100 to 3-108 or the equivalent provisions of the governing body of the legal profession in another province or territory of Canada and they have retained the required documentation;

(c) you act for a client who was referred to you by another lawyer or an interjurisdictional lawyer who has confirmed to you that they have already complied with Rules 3-100 to 3-108 or the equivalent provisions of the governing body of the legal profession in another province or territory of Canada and they have retained the required documentation;

(d) a member or employee of your firm has identified the client, including members or employees of your firm conducting business in another Canadian jurisdiction;

(e) you provide legal services that do not involve a financial transaction as part of a duty counsel program sponsored by a non-profit organization;

(f) you provide pro bono summary advice that does not involve a financial transaction;

(g) you have previously identified and retained the identity documentation for this client; or

(h) your client retained you to provide legal services in respect of a matter before December 31, 2008 on which you are still acting and the client has not retained you in respect of a new matter.

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3. I was acting for a client on a matter before December 31, 2008, 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 the client after December 31, 2008, you must comply with the identification and verification requirements regardless of whether the client is an existing client.

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4. 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 must exercise due diligence to satisfy yourself that the other lawyer/interjurisdictional lawyer has already identified the client. This involves asking the individual to confirm to you that he or she has complied with the requirements. If you are acting as an agent on behalf of an interjurisdictional lawyer or if an interjurisdictional lawyer has referred the client to you, the interjurisdictional lawyer must have complied with Rules 3-100 to 3-108 or the equivalent provisions of a governing body of the legal profession in another province or territory of Canada.

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5. 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 the law firm's 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 identify the law firm's client. In any event, the Rule 3-99 (2) (c) exemption would likely apply.

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6. What information do I have to obtain to identify my client when my client is an individual?

When you are retained by an individual, you must make reasonable efforts to obtain and, if obtained, record all of the following information that is applicable:

- (a) the client's full name;
- (b) home address and home telephone number;
- (c) occupation(s); and
- (d) business address and business telephone number.

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7. Can I act for an individual who doesn't have an occupation or doesn't want to tell me what it is?

You are required to make reasonable efforts to find out what your client does. If your client doesn't want to answer the question, you should explain that all lawyers and interjurisdictional 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 client identification rule (Rule 3-100) unless you get it and your professional obligations do not permit you to act for a client in such circumstances.

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.

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8. What if my client is living on the street and doesn't have a home address? How do I record the client's address?

Rule 3-100 requires you to make reasonable efforts to obtain and record the information that is applicable. If the individual doesn't have a home address, you will be unable to record it. However, it would be prudent to record what efforts you have made to obtain an address. Consider where you will send correspondence and how you will reach this client if you need to do so. Obtain that address and record it.

If the person isn't living on the street but simply won't give you a home address, consider whether you should be acting for that client at all.

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

Yes. "Client" includes another party that a lawyer's client represents or on whose behalf the client otherwise acts in relation to obtaining legal services from the lawyer (Rule 3-98(1)(a)). You do not have to verify the identity of the minor because a minor does not have legal capacity and so is not formally directing or instructing your client.

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10. What information do I have to obtain to identify a client that is an organization?

Organization means a body corporate, partnership, fund, trust, co-operative or unincorporated association. Subject to certain exceptions, when your client is an organization, you must make reasonable efforts to obtain and record all of the following information that is applicable:

- (a) the client's full name, business address and business telephone number;
  - (b) the organization's incorporation or business identification number and the place of issue of its incorporation or business identification number;
  - (c) the general nature of the type of business or activity engaged in by the client; and
  - (d) the name, position and contact information of the individual(s) who instructs you in the matter for which you are retained.
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11. What information do I have to obtain to identify a client that is a "financial institution", a "public authority" or a "reporting issuer"?

When your client is a "financial institution", a "public authority" or a "reporting issuer" (as defined in Rule 3-98), you must make reasonable efforts to obtain and record the following information to identify the client:

- (a) the client's full name, business address and business telephone number; and
  - (b) the name, position and contact information of the individual(s) who instruct you in the matter for which you are retained.
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12. If my client represents or acts on behalf of another party, do I have to obtain information to identify the other party in addition to obtaining information to identify my own client?

Yes. See the definition of "client" in Rule 3-98. If your client acts for or represents another party in relation to obtaining legal services from you, you must make reasonable efforts to obtain the same information to identify the party who is directing or instructing your client as if the other party was your client.

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13. Do I have an obligation to ask my client if they act for or represent another party who is directing or instructing them?

Although the rule does not impose a specific obligation, it would be prudent practice to do so.

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14. I am acting for a union on a grievance. Am I required to identify the grievor and the union?

Usually you would only identify the union since the union normally has the carriage of the grievance. The grievor, while an interested party, does not instruct the union. Where a grievor does have carriage of the grievance and instructs the union as to how to proceed, the lawyer would identify the grievor.

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15. Lawyers retain me to provide mediation services to their clients. I do not give legal advice; I merely act as a neutral mediator. I do not prepare documents for use in a proceeding; however, when there is a settlement, I often prepare minutes of settlement. The lawyers and their clients sign a mediation agreement with me. I bill the lawyers for my work as a mediator. Am I required to identify the lawyers? Am I required to identify their clients?

Rule 3-100 (1) requires lawyers to identify clients who retain them to provide legal services. You do not provide legal advice and you do not draw documents for use in a proceeding. Non-lawyers can act as mediators in this context. You are not required to identify your client. If you provide legal advice or perform any of the acts that are included in the "practice of law" as set out in section 1 of the *Legal Profession Act*, you are required to identify the lawyers and their clients.

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16. I am retained by lawyers to arbitrate disputes. At the end of the arbitration, I provide a written decision. I bill the lawyers for my work. Am I required to identify the lawyers? Am I also required to identify the lawyers' clients as third party beneficiaries or principals?

You are not required to identify the lawyers or the lawyers' clients when you are acting as an arbitrator

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17. I sometimes commission or notarize a document for someone but do not give any legal advice. I usually charge for this service. Do I have to identify the person?

Simply commissioning or notarizing a document does not trigger the identification obligations under Rule 3-100. However, lawyers should still obtain and copy identity documents when acting as a commissioner or notary. Also note Appendix A, paragraph 1, commentary [8] of the *BC Code*, which states as follows:

[8] The commissioner should be satisfied that the deponent is who the deponent represents himself or herself to be. Where the commissioner does not know the deponent personally, identification should be inspected and/or appropriate introductions should be obtained.

If you are retained to provide legal advice or other representation, the rule applies and there could be a "financial transaction" triggering the obligation to verify identity as well.

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## Verification

### 18. Rule 3-103 talks about identifying directors, shareholders and owners. What is required?

You are only required to identify an organization's directors, shareholders and owners if:

- (a) the "organization" is a "client";
- (b) there is a "financial transaction"; and
- (c) the organization is not a "financial institution", "public authority", "reporting issuer" or a "securities dealer".

The words in quotation marks are defined in Rule 3-98.

To identify the directors, shareholders and owners, you must make reasonable efforts to obtain and, if obtained, record:

- (a) the name and occupation of all directors of the organization, and
- (b) the name, address and occupation of all persons who own 25 per cent or more of the organization or of the shares of the organization.

Since you are not required to verify the identity of the directors, shareholders and owners, you are not required to photocopy a driver's license, etc.

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### 19. What are "reasonable efforts" to obtain information to identify directors, shareholders and owners?

The answer will depend on the context. In many cases, asking your client for the information and recording it will suffice. It may also be appropriate to consult corporate minute books where readily available or an on-line corporate registry service.

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### 20. After I have verified the identity of my corporate client, do I have to do something else with every change of directors? For example, Rule 3-102 (2)(b) tells us what we must do but how does it relate to Rule 3-103? Over time there will be changes to the directors and to owners of 25% or more of the shares.

Once you have verified the identity of a client that is an organization and obtained information under Rule 3-103, you are not required to subsequently verify that identity or obtain that information (Rule 3-106). However, as a matter of prudence, it is wise to keep your files up to date in respect of the current directors and officers of an organization that is a client and who is authorized to give in instructions on behalf of a client.

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21. If I am not able to get the names of the directors, shareholders and owners of a corporation or society, may I continue to act for the client?

Yes, provided you have made reasonable efforts to obtain the information. It would be prudent to record the efforts that you have made in such case.

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22. Do I have to verify my client's identity when I receive money for my legal fees and disbursements?

No. Professional fees, disbursements and expenses are all exempted from the verification requirements. If that is the only money you receive and there is no other "financial transaction", you do not have to verify your client's identity.

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23. Does every "financial transaction" trigger the verification requirements?

No. There are many exemptions. First, for the verification requirements to apply, the lawyer must receive, pay or transfer "money" on behalf of a client or give instructions on behalf of a client in respect of the receiving, paying or transferring of money (a "financial transaction"). If there is a "financial transaction", then you can check to see if there is an exemption from the requirement to verify identity. Note that money does not have to pass through your trust account in order for there to be a financial transaction. If funds pass directly between parties to a transaction, the verification obligations are triggered if you are giving instructions for the movement of funds.

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24. Are there any exemptions to the requirement to verify a client's identity when there is a financial transaction?

The client verification requirements do not apply when a lawyer:

(a) pays money to or receives money from any of the following acting as principal:

(i) a financial institution",

(ii) a "public authority",

(iii) a "reporting issuer",

(b) receives money paid from the trust account of another lawyer or an interjurisdictional lawyer,

(c) receives money from a peace officer, law enforcement agency or other public official acting in an official capacity,

(d) pays or receives money

- (i) pursuant to the order of a court or other tribunal,
- (ii) to pay a fine or penalty,
- (iii) as a settlement of any legal or administrative proceeding, or
- (iv) for professional fees, disbursements, expenses or bail,
- (e) provides legal services as in-house counsel on behalf of the lawyer's employer,
- (f) acts as an agent for another lawyer or interjurisdictional lawyer who has confirmed that they have already complied with Rules 3-100 to 3-108 or the equivalent provisions of the governing body of the legal profession in another province or territory of Canada and they have retained the required documentation,
- (g) acts for a client who has been referred by another lawyer or an interjurisdictional lawyer who has confirmed that have already complied with Rules 3-100 to 3-108 or the equivalent provisions of the governing body of the legal profession in another province or territory of Canada and they have retained the required documentation
- (h) has fulfilled his/her responsibilities through their firm, including fulfillment through members or employees of the lawyer's firm conducting business in another Canadian jurisdiction,
- (i) previously verified the identity and retained the verification documentation for this client, and in the case of an individual, the lawyer recognizes the client
- (j) acts for a client that is a financial institution, a public authority, a reporting issuer or an individual who instructs the lawyer on behalf of a financial institution, public authority or a reporting issuer.
- (k) was retained by the client in respect of a matter before December 31, 2008 on which the lawyer is still acting and the client has not retained the lawyer in respect of a new matter.

In addition, the verification rules do not apply with respect to a transaction in which all funds involved are transferred by electronic transmission provided all the requirements set out in Rule 3-101 (c) are met. Neither the sender nor the beneficial receiver are permitted to handle or transfer the funds and a full record of the transaction must be kept. The transfer must occur between financial institutions or financial entities headquartered in and operating in countries that are full members of the Financial Action Task Force.

Take note that the exemption from verification for money "paid to another lawyer in trust, on the direction of the client" was deleted from the rules. That exemption no longer exists.

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25. My client is the executrix of an estate. I know that I have to verify her identity but do I also have to verify the identity of the beneficiaries because they will receive money pursuant to the will?

No. A beneficiary does not fall within the meaning of "client" (as defined) just because the beneficiary may benefit from or be affected by the actions of your client, the executrix.

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

As long as the documents are reasonably 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 and that is acceptable.

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27. I am acting for the vendor in a real estate transaction. The purchaser's lawyer will send me his/her trust cheque for the sale proceeds. After paying the outstanding mortgage and taking my fees and disbursements, I will send my client my trust cheque for the balance. Do I have to verify my client's identity?

Yes. Although the original source of the money from the purchaser's lawyer is exempt, paying the balance of the money to your client is a "financial transaction" that is not exempt from the verification requirements. In any event, it is prudent practice to verify your client's identity for all purchase and sale transactions.

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28. My client is a private company that is raising money from the sale of shares. The company receives subscription proceeds in trust from subscribers pending closing of the share offering. The subscriber (not my client) sent me the purchase price for the shares in trust. Do I have to verify the identity of the subscriber as well as verify the identity of my client?

You are not required to verify the identity of the subscriber. You are required to take reasonable steps to verify the identity of the private company and the individual instructing you on behalf of the company.

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29. My client has asked me for some legal advice in connection with some investments. Do I have to verify my client's identity?

The verification provisions apply when you provide legal services with respect to a "financial transaction" (as defined). If you are simply giving advice but are not receiving, paying or transferring money on behalf of a client or giving instructions on behalf of a client with respect to the aforementioned, the obligations are not triggered.

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30. I have been retained by an insurance company to act for it in relation to a subrogated litigation claim. Assume there is a financial transaction and that the plaintiff client's claim is settled without commencing a proceeding. Do I have to verify the identity of the insurance company's client considering the definition of "client" in Rule 3-98?

First, remember that if the insurance company client is a "reporting issuer" or a "public authority" (e.g. ICBC), the verification rules do not apply.

Assuming that the insurer has, by operation of law or contract, succeeded to the rights of its insured in relation to the claim, you are required to take reasonable steps to verify the identity of the insurance company. If, however, the insured also has a claim that you are bringing concurrently with the subrogated claim, you must also take reasonable steps to verify the identity of the insured.

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31. I have been retained by an insurance company to defend a liability claim. What are my obligations, when defending an insured on the instructions of an insurer pursuant to a liability policy?

The client identification and verification rules will normally apply with respect to the insurer and the individuals instructing you on behalf of the insurer. Special considerations may apply with regard to an obligation to verify the identity of the insured.

If there is a "financial transaction", you must take reasonable steps to verify the identity of the insurer and instructing individuals. The status of the insurance company (i.e., if it is a "financial institution", "public authority" or a "reporting issuer") will determine if the insurer (and consequently its instructing individual) is exempt from the verification process.

Different issues arise when considering an obligation to verify the identity of the insured. If the insured has a right under the policy to guide and instruct counsel, and is doing so, you must take reasonable steps to verify the identity of the insured.

If the insured is difficult or impossible to locate during the course of the retainer, defence counsel is not obliged to decline the retainer simply because the insured cannot be located.

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32. My client will receive (or pay) money to settle a legal proceeding. Will I have to verify the client's identity in that case?

No. You do not have to verify the identity of your client if the only "financial transaction" is "money" paid to settle a legal or administrative proceeding. However, the proceeding must have actually been commenced for this exemption to apply.

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33. Do I have to verify the identity of my client when I receive money for my client from the trust account of another lawyer or interjurisdictional lawyer?

No, the verification requirements are not triggered in such a case. However, if you pay the money out to the client or otherwise, that may be a separate "financial transaction" (as defined in Rule 3-98).

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34. How do I verify the identity of my client when my client is an individual?

You must take reasonable steps to verify an individual's identity, obtaining and retaining copies of what you reasonably consider to be reliable, independent source documents, data or information. Independent source documents may include valid original government-issued identification, including a driver's licence, birth certificate, provincial or territorial health insurance card, passport or similar record.

If your client represents or acts on behalf of another individual in relation to the matter for which you are retained, you are required to verify the identity of the other individual too. See the definition of "client" in Rule 3-98.

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35. How do I verify the identity of a corporation or a society?

Unless another exemption applies, you must take reasonable steps to verify the client's identity by obtaining and retaining copies of what you reasonably consider to be reliable, independent source documents, data or information.

If the "client" (as defined in Rule 3-98) is an organization such as a corporation or society created pursuant to legislative authority, you must obtain and retain a written confirmation from a government registry as to the existence, name and address of the organization, including the names of its directors and officers, such as:

- (a) a certificate of corporate status issued by a public authority;
- (b) a copy obtained from a public authority of a record that the organization is required to file annually under applicable legislation; or
- (c) a copy of a similar record obtained from a public authority that confirms the organization's existence.

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36. I am acting on a joint venture. How do I verify identity?

Since a joint venture is not a legal entity, but rather a number of organizations that have joined together for a common purpose, each party to the joint venture would be directing the affairs of the joint venture. You would verify the identity of the organization or organizations for whom you act as in the case of verifying any other organization.

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37. How do I verify the identity of a client that is a partnership?

You must take reasonable steps to verify the identity of the partnership by obtaining a formal record that confirms its existence. Obviously, you may be able to obtain independent verification information through government registry searches for some partnerships (e.g. the certificate required to be filed by a limited partnership or a registration statement for an LLP) but not others.

You could also obtain a copy of the partnership agreement, information from the Canada Revenue Agency GST/HST registry or a copy of the business licence.

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38. I am acting for a trust. What kind of documents might I obtain to verify its identity?

You must take reasonable steps to verify the identity of the trust. The documentation you will need to consult 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.

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39. My client is a Canadian lawyer. There is a financial transaction. I am not meeting with the lawyer in person. Do I have to verify the lawyer's identity?

Yes. Assuming the client is in Canada, you must have a commissioner of oaths or a guarantor attest that they have verified the client's identity (Rule 3-104).

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40. I am a lawyer in Vancouver and my client is in Calgary. Are there any special rules to verify this person's identity?

Yes. If your client is in Canada but you cannot meet with the client in person, you must have a commissioner of oaths or a guarantor attest that they have verified the client's identity (Rule 3-104). See Appendix 1 of the Client Identification and Verification Procedure Checklist for a sample attestation form for the verification of identity.

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41. Who in Canada can provide an attestation to an individual's identity?

An attestation may be provided by a commissioner of oaths or a guarantor in Canada when the client is in Canada.

A guarantor must be a person in Canada who is engaged in one of the occupations set out in Rule 3-104(4) (e.g. architect, dentist, medical doctor, lawyer, notary public, etc.). You must exercise due diligence in ascertaining that the person providing the attestation is engaged in one of the permitted occupations.

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42. How would a commissioner of oaths or a guarantor attest to an individual's identity in Canada?

See the sample attestation form for the verification of identity (Appendix 1 of the Client Identification and Verification Procedure Checklist).

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43. When would I use an agent to verify the identity of a client outside of Canada?

If your client is not in Canada and you cannot meet with the client in person, you must rely on an agent to obtain the information required to verify the identity of the client under Rule 3-102, which may be attested to in a form similar to that described in Rule 3-104. You must have a written agreement or arrangement with the agent for this purpose.

If you enter into such an agreement or arrangement, you must obtain from the agent the information obtained by the agent.

You may use your discretion to determine who is an appropriate agent in the circumstances (e.g., a lawyer, notary).

See the sample agreement with an agent for verification of a client's identity when the client is outside of Canada (Appendix II of the [Client Identification and Verification Procedure Checklist](#)).

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44. May I rely on a faxed attestation?

Yes, but you should request the original attestation for your records. The documents used to verify identity should be clear and legible. You may store the document electronically as long as you can readily produce a hard copy.

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

As long as you recognize the individual, you do not have to verify their identity more than once.

In the case of an "organization" (as defined in Rule 3-98), you do not have to verify the identity again. This exception also applies to verifying the identity of the individuals who you have previously identified who instruct you on behalf of the organization.

There may be circumstances where it is prudent to verify the identity of an individual or an organization more than once.

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

In every case involving a "financial transaction" (as defined in Rule 3-98), you must take reasonable steps to verify the identity of the person instructing you unless you have previously done so or another exemption applies.

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47. Although there is one senior person instructing me with respect to a financial transaction on behalf of my corporate client, I am also receiving instructions on discrete aspects of the matter from several other company employees. Do I have to verify the identity of every individual?

You must use your judgment in the circumstances. If you are satisfied that one individual is responsible for the instructions that you are receiving from the others, it may be sufficient to verify that one person's identity. If however no instructing individual has overall responsibility for the instructions given by others, you must take reasonable steps to verify the identity of each person instructing you on behalf of the company.

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

The rule does not require that you investigate such an assertion. If you have concerns about the assertion it would be prudent to make further inquiries to satisfy yourself that the individual is indeed authorized to instruct you.

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

You must make reasonable efforts to identify your "client" (as defined in Rule 3-98), when you are retained to provide legal services.

You must also take reasonable steps to verify the identity of a client when you provide legal services in respect of a "financial transaction". If the client is an individual, you must verify identity before or at the time that you provide legal services in respect of a "financial transaction". The same is true for verifying the identity of individuals instructing you on behalf of an organization and individuals whom your client represents or on whose behalf the client otherwise acts (Rule 3-105 (1)).

However, if your client is an "organization" (as defined in Rule 3-98), you must take reasonable steps to verify the identity of the organization within 60 days of engaging in a "financial transaction" (Rule 3-106).

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50. What happens if I am unable to verify the identity of a corporate client within 60 days of engaging in a financial transaction?

Rule 3-102(1) requires you to take 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 an organization, you should verify the identity of your client as early as possible in the retainer. If you are unable to verify your client's identity despite having taken reasonable steps, it would be prudent to document the steps that you have taken.

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

Rule 3-107 requires that you obtain and retain a copy of every document you rely on to verify the identity of any individual or organization.

You must also record the information that you obtain to identify your client and any information and copies of documents that you rely on to identify the directors, shareholders and owners of 25 per cent or more of an organization.

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52. Do I have to verify the identity of a client for whom I was retained before December 31, 2008?

Not as long as you continue to act for the client on the same matter. But, if you take on a new matter for the same client on or after December 31, 2008, you are required to take the necessary steps to identify the client, and to verify the identity if you are involved in a "financial transaction" (as defined in Rule 3-98).

Where you have verified the identity of an individual, you are not required to subsequently verify that same identity if you recognize that person.

If you have verified the identity of a client that is an organization and obtained the information under Rule 3-103 (identifying directors, shareholders and owners), you are not required subsequently to verify that identity or obtain that information. However, if someone new is instructing you in respect of a financial transaction on behalf of the organization, you must verify the identity of the individuals instructing you.

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53. Do I have to verify the identity of an attorney who is instructing me on behalf of the donor under a power of attorney?

You should determine whether the donor is a "client." In most cases you will need to verify the donor's identity unless you drafted the power of attorney and completed the verification at that time.

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54. If I am acting on a class action, do I only need to verify the identity of the representative plaintiff?

You only need to verify the identity of the representative plaintiff.

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## Other

55. 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, in the course of obtaining the information and taking the required steps or while retained by the client, you reasonably suspect that you would be assisting the client in fraud or other illegal conduct, Rule 3-109 requires that you must withdraw.

See also *BC Code* rules 3.2-7 and 3.2-8. A lawyer must not engage in any activities that a lawyer knows or ought to know assists in or encourages any dishonesty, crime or fraud.

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

You are not required to record when you are relying on an exemption; however, it would be prudent to do so in order to demonstrate to the Law Society that you relied on a valid exemption, if asked.

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57. Do I have to keep identification and verification information in a separate file or can I keep it in my client's file?

You can keep the information and documents in your client file. There is no need to maintain a separate file but you may decide that you want to do that.

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58. Can I obtain and retain identification and verification information in electronic form?

Yes, you may obtain and retain a copy of every document used to verify the identity of any individual or organization in a machine-readable or electronic form, if a paper copy can be readily produced from it.

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59. How long must I retain client identification and verification information?

You must retain a record of the information and any documents obtained for the purposes of client identification (Rule 3-100) and identification of directors, shareholders and owners (Rule 3-103) and copies of all documents received for the purposes of verification (Rule 3-102(2)), for the longer of:

- (a) the duration of the lawyer and client relationship and for as long as is necessary for the purpose of providing services to the client; and
  - (b) six years following completion of the work for which you were retained.
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60. I need advice about a specific situation that is not addressed in these questions. What should I do?

You are welcome to contact a Law Society Practice Advisor. You can also refer to the [Client Identification and Verification Procedure Checklist](#) or view the [Client Identification and Verification Online Course](#) (Part 3 of the Courthouse Libraries BC series, The Practical Lawyer, 2016).

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