



In Nova Scotia this regulation came into effect on Monday, November 3, 2008.

4.5 Client Identification

4.5.1 In subregulation 4.5

- (a) “electronic funds transfer” means an electronic transmission of funds conducted by and received at a financial institution or a financial entity headquartered in and operating in a country that is a member of the Financial Action Task Force, where neither the sending nor the receiving account holders handle or transfer the funds, and where the transmission record contains a reference number, the date, transfer amount, currency and the names of the sending and receiving account holders and the conducting and receiving entities
- (b) “financial institution” means
 - a. an authorized foreign bank within the meaning of section 2 of the *Bank Act* in respect of its business in Canada or a bank to which the *Bank Act* applies,
 - b. a cooperative credit society, savings and credit union or caisse populaire that is regulated by a provincial Act,
 - c. an association that is regulated by the *Cooperative Associations Act* (Canada),
 - d. a company to which the *Trust and Loan Companies Act* (Canada) applies,
 - e. a trust company or loan company regulated by a provincial Act, or
 - f. a department or agent of Her Majesty in right of Canada or of a province where the department or agent accepts deposit liabilities in the course of providing financial services to the public; *or*
 - g. a subsidiary of the financial institution whose financial statements are consolidated with those of the financial institution
- (c) “funds” mean cash, currency, securities and negotiable instruments or other financial instruments that indicate the person’s title or interest in them;
- (d) “organization” means a body corporate, partnership, fund, trust, co-operative or an unincorporated association;
- (e) *deleted.*
- (f) “proceedings” means a legal action, application or other proceeding commenced before a court of any level, a statutory tribunal in Canada or an arbitration panel or arbitrator established pursuant to provincial, federal or foreign legislation and includes proceedings before foreign courts
- (g) “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,
 - c. a municipality incorporated by or under an Act of a province or territory of Canada including any body governed by the *Municipal Government Act*, SNS 1998, c.18
 - d. an organization that operates a public hospital and that is designated by the Minister of National Revenue as a hospital authority under the *Excise Tax Act* (Canada) or an agent of the organization, or
 - e. a body incorporated by or under the law of an Act of a province or territory of Canada for a public purpose. or



In Nova Scotia this regulation came into effect on Monday, November 3, 2008.

- f.* a subsidiary of a public body whose financial statements are consolidated with those of the public body
- (h) “reporting issuer” means an organization that is a reporting issuer within the meaning of the securities laws of any province or territory of Canada, or a corporation whose shares are traded on a stock exchange designated under the Income Tax Act (Canada) and operates in a country that is a member of the Financial Action Task Force, and includes a subsidiary of that organization or corporation whose financial statements are consolidated with those of the organization or corporation
- (i) “securities dealer” means a person or entity that is authorized under provincial legislation to engage in the business of dealing in securities or any other financial instruments or to provide portfolio management or investment advising services

Client Identity- Exclusion from Rule

4.5.2 Subregulations 4.5.3 – 4.5.16 do not apply to:

- (a) a lawyer who provides legal services, or is engaged in or gives instructions in respect of any activities on behalf of his or her employer;
- (b) a lawyer;
 - (i) who is engaged as agent by the lawyer for a client to provide legal services to that client, or
 - (ii) to whom a matter for the provision of legal services is referred by the lawyer for a client or
 - (iii) a lawyer providing legal services as part of a duty counsel program sponsored by a non-profit organization, except where the lawyer engages in or gives instructions in respect of the receiving, paying or transferring of funds other than an electronic funds transfer

Requirement to Record Client Identification

4.5.3 Subject to subregulation 4.5.2, a lawyer who is retained by a client to provide legal services must comply with these regulations and shall obtain and record the following information:

- (a) the client’s full name,
- (b) the client’s business address and business telephone number ,if applicable,
- (c) if the client is an individual, the client’s home address and home telephone number,
- (d) if the client is an organization, other than a financial institution, public body or reporting issuer the organization’s incorporation or business identification number and the place of issue of its incorporation or business identification number, if applicable,
- (e) if the client is an individual, the client’s occupation or occupations,
- (f) if the client is an organization,
 - (i) other than a financial institution, public body or reporting issuer, the general nature of the type of business or businesses or activity or activities engaged in by the client, where applicable, and



In Nova Scotia this regulation came into effect on Monday, November 3, 2008.

- (ii) the name and position of and contact information for the individual(s) authorized to provide and giving instructions to the lawyer with respect to the matter for which the lawyer is retained.
- (g) if the client is acting for or representing a third party, information about the third party as set out in paragraphs (a) to (f) as applicable.

Requirement to Identity and Verify Client

4.5.4 A lawyer who is engaged in or gives instructions on behalf of a client, in respect of the receiving, paying or transferring of funds, other than an electronic funds transfer, including non-face-to-face transactions, shall upon engaging in or giving instructions, take reasonable steps to verify the identity of the client and the individual authorized to provide and giving instructions to the lawyer with respect to the matters for which the lawyer is retained, using what the lawyer reasonably considers to be reliable independent source documents, data or information.

4.5.4.1 A lawyer's responsibilities under this Regulation may be fulfilled by any member, associate or employee of the lawyer's firm, wherever located.

4.5.4.2 The verification required under this subregulation shall be carried out at the time the lawyer engages in or gives instructions regarding receiving, paying or transferring, funds.

Independent Source Documents

4.5.5 For purposes of subregulation 4.5.4, independent source documents may include:

- (a) if the client or third party is an individual, valid original government issued identification, including a driver's licence, birth certificate, provincial or territorial health insurance card, passport or similar record;
- (b) if the client or third party is an organization such as a corporation or society that is created or registered pursuant to legislative authority, a written confirmation from a government registry as to the existence, name and address of the organization, including the name of its directors and officers, where applicable, such as:
 - (i) a certificate of corporate status issued by a public body,
 - (ii) a copy obtained from a public body of a record that the organization is required to file annually under applicable legislation, or
 - (iii) a copy of a similar record obtained from a public body that confirms the organization's existence; and
- (c) if the client or third party is an organization, other than a corporation or society, that is not registered in any government registry, such as a trust or partnership, a copy of the organization's constating documents, such as a trust or partnership agreement, articles of association, or any other similar record that confirms its existence as an organization.

Exemptions re Certain Funds

4.5.6 Subregulation 4.5.4 does not apply where the client is a financial institution, public body, or reporting issuer, or in respect of funds:



In Nova Scotia this regulation came into effect on Monday, November 3, 2008.

- (a) paid by or to a financial institution, a public body, or a reporting issuer;
- (b) received by a lawyer from the trust account of another lawyer;
- (c) received from a peace officer, law enforcement agency or other public official acting in their official capacity;
- (d) paid or received pursuant to a court order or to pay a fine or penalty;
- (e) paid or received as a settlement of any legal or administrative proceedings; or
- (f) paid or received for professional fees, disbursement, expenses or bail.

Verification of Organizations

4.5.7 A lawyer who is engaged in or gives instructions on behalf of a client or third party, that is an organization referred to in 4.5.5(b) or (c), in respect of the receiving, paying or transferring of funds, including non-face-to-face transactions, shall

- (a) verify the identity of the individual or individuals authorized to provide and giving instructions on behalf of the organization with respect to the matter for which the lawyer is retained, upon engaging in or giving instructions, and
- (b) make reasonable efforts to obtain and if obtained, record,
 - (i) the name and occupation of all directors of the organization, other than an organization that is a securities dealer, and
 - (ii) 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.

Verify Identity Within Sixty Days

4.5.7.1 A lawyer shall verify the identity of a client that is an organization within sixty days of engaging in or giving instructions in respect of the receiving, paying or transferring funds, other than an electronic funds transfer.

Identity of Clients Elsewhere in Canada

4.5.8 A lawyer who is engaged in or gives instructions on behalf of a client or third party who is an individual, and who is not physically present before the lawyer, but is present elsewhere in Canada, in respect of the receiving, paying or transferring of funds, including non-face-to-face transactions, shall verify the client's identity by obtaining an attestation from a commissioner of oaths in Canada, or a guarantor in Canada, that the commissioner or guarantor has seen a valid original government issued identification including a driver's licence, birth certificate, provincial or territorial health insurance card, passport or similar record.

4.5.8.1 When a lawyer engages in or gives instructions in respect of any of the activities in section 4 for a client or third party who is an individual who is not physically present before the lawyer but is present elsewhere in Canada, the lawyer shall verify the client's identity by obtaining an attestation from a commissioner of oaths in Canada, or a guarantor in Canada, that the commissioner or guarantor has seen one of the documents referred to in regulation 4.5.5(d).



In Nova Scotia this regulation came into effect on Monday, November 3, 2008.

4.5.8.2 When a lawyer who engages in or gives instructions in respect of any of the activities in section 4 for a client that is an organization is instructed by an individual authorized to provide and giving instructions to the lawyer with respect to the matter for which the lawyer is retained, and who is not physically present before the lawyer, but is present elsewhere in Canada, the lawyer shall verify the individual's identity by obtaining an attestation from a commissioner of oaths in Canada, or a guarantor in Canada, that the commissioner or guarantor has seen one of the documents referred to in regulation 4.5.5(b).

Attestation by Guarantor

4.5.9 For purposes of subregulation 4.5.8, an attestation shall be produced on a legible photocopy of the document and shall include:

- (a) the name, profession and address of the person providing the attestation,
- (b) the signature of the person providing the attestation, and
- (c) the type and number of the identifying document provided by the client, third party, or instructing individual.

Guarantors

4.5.10 For purposes of subregulation 4.5.8, a guarantor must be a person employed in one of the following occupations:

- (a) dentist;
- (b) medical doctor;
- (c) chiropractor;
- (d) judge;
- (e) magistrate;
- (f) lawyer;
- (g) notary (in Quebec);
- (h) notary public;
- (i) optometrist;
- (j) pharmacist;
- (k) professional accountant who is a member of one of the following bodies: APA – Accredited Public Accountant, CA - Chartered Accountant, CGA - Certified General Accountant, CMA - Certified Management Accountant, PA - Public Accountant or RPA - Registered Public Accountant;
- (l) professional engineer who holds the designation of P. Eng in a province other than Quebec or Eng in Quebec;
- (m) veterinarian;
- (n) peace officer;
- (o) paralegal licensee in Ontario;
- (p) nurse; or
- (q) school principal



In Nova Scotia this regulation came into effect on Monday, November 3, 2008.

Verification of Independent Source Documents

4.5.11 The verification of the identity of a client, third party, or individual authorized to provide and giving instructions to the lawyer on the matter may, and in the case of a non-face-to-face transaction involving a client who is not present in Canada, shall be carried out by an agent on behalf of the lawyer provided that:

- (a) the lawyer and the agent have an agreement in writing for that purpose, and
- (b) the lawyer obtains from the agent the information obtained by the agent to verify the client's identity.

Attestation by Agent

4.5.12 A lawyer who enters into an agreement or an arrangement referred to in subregulation 4.5.11 shall obtain from the agent the information obtained, which may include, where applicable, an attestation described in this section, by the agent under that agreement or arrangement.

No Subsequent Verification

4.5.13 Where a lawyer has verified the identity of a client:

- (a) who is an individual, the lawyer, or another lawyer in the same law firm, is not required to subsequently verify that same identity, if the original lawyer recognizes the person;
- (b) which is an organization, and obtained information pursuant to subregulation 4.5.7, the lawyer is not required to subsequently verify that identity or obtain that information.

Record Keeping and Retention

4.5.14.1 A lawyer shall obtain and retain a copy of every document used to verify the identity of any individual or organization pursuant to this regulation.

4.5.14.2 The documents referred to in subregulation 4.5.14.1 may be kept in a machine-readable or electronic form, if a paper copy can be readily produced from it.

4.5.14.3 A lawyer shall retain a record of the information and any documents obtained for the purposes of subregulations 4.5.4 and 4.5.5 and copies of all documents received for the purposes of subregulation 4.5.7 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 service to the client, and
- (b) a period of at least six years following completion of the work for which the lawyer was retained.

Application

4.5.15 Subregulations 4.5.3, 4.5.4, 4.5.7 and 4.5.8 do not apply to matters in respect of which a lawyer was retained before this regulation comes into force but they do apply to all matters for which he or she is retained after that time regardless of whether the client is a new or existing client.



In Nova Scotia this regulation came into effect on Monday, November 3, 2008.

Criminal Activity, Duty to Withdraw at Time of Taking Information

4.5.16.1 In the course of obtaining information and taking the steps required by this regulation, a lawyer shall act in accordance with the *Legal Ethics Handbook*, including, but not limited to, Chapters 4.7, 4.8, 4.9 and 11.1, and if the lawyer withdraws from representing the client, he or she must record the reasons for doing so.

4.5.16.2 Subregulation 4.5.16.1 applies to all matters, including new matters for existing clients, for which a lawyer is retained after this Rule comes into force.

4.5.17 Criminal Activity, Duty to Withdraw after being Retained

4.5.17.1 While retained by a client, a lawyer shall act in accordance with the *Legal Ethics Handbook*, including, but not limited to, Chapters 4.7, 4.8, 4.9 and 11.1, and if the lawyer withdraws from representing the client, he or she must record the reasons for doing so.

Application

4.5.17.2 This subregulation applies to all matters for which a lawyer was retained before this regulation comes into force and to all matters for which he or she is retained after that time.