EXPECT THE BEST

Blaney McMurtry
BARRISTERS & SOLICITORS LLP

Know Your Own Client

Presented by :

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An Overview

▸ **The By-law requires lawyers to obtain certain identification information with respect to their clients when they open new files on or after December 31, 2008;**

▸ **When we assist our clients with certain financial transactions we may also be obliged to obtain additional identifying information AND to verify our clients' identities;**

Overview, continued

▸ Many of our clients are "reporting issuers, public bodies or financial institutions";

▸ We are not obliged to obtain the additional identifying information or to verify our clients' identities when this is the case;

▸ Additionally, if a client is one of these entities we are not obliged to obtain some of the initial identifying information;

Overview, continued

▸ **Finally, a number of financial transactions are exempt from the requirement to obtain additional identifying information and from the verification process;**

Our Approach

▸ We are going to oblige every lawyer to obtain the basic identifying information that is required when the file is opened;

▸ When you deposit monies or requisition funds you will be obliged to obtain additional identification and verification information unless the transaction is exempt or the client is exempt;

Our Approach, continued

▶ **Even where the client is not a exempt, a number of financial transactions are exempt. Therefore, for many files you will only need to obtain identifying information when the file is opened;**

▶ **When additional identification and verification is required it almost always must be obtained at the time the financial transaction is done;**

▶ **Generally, it only needs to be obtained once;**

The Balance of this Slideshow

▸ I will define a few terms;

▸ I will outline the client identification information we require and how it should be obtained (Identification);

▸ I will outline the types of transactions which require additional identification information and client verification (Verification);

▸ I will then address how we will Verify identity;

The Balance, continued

▶ I will discuss the procedures for Verification where we cannot meet the client;

▶ Finally, I will deal with a couple of special issues.

Types of Clients

▸ **Clients are implicitly divided into two broad classes:**

  ▸ individuals;

  ▸ organizations;

▸ **However, there are clients that do not fit into these two broad classes like the Ontario Government;**

Organizations

▶ **Organizations means:**

 ▶ a body corporate;

 ▶ partnership;

 ▶ fund;

 ▶ trust;

 ▶ co-operative; or an

 ▶ unincorporated association.

Reporting Issuer

▶ A reporting issuer within the meaning of an Act of a province or territory in respect of securities law of the province or territory;

▶ a corporation whose shares are traded on a stock exchange designated under s. 262 of the *Income Tax Act* and that operates in certain countries; or

Reporting Issuer, continued

▶ a subsidiary of the above where its financial statements are consolidated with those of the reporting issuer;

Public Body

▸ ministry, department or agent of the Federal Government or a Province;

▸ municipality;

▸ local board of a municipality;

▸ an organization that operates a public hospital authority;

▸ a body incorporated by an act of a province, territory or Federal government for a public purpose.

Public Body, continued

▶ a subsidiary of one of the above where its financial statements are consolidated with thse of the entity;

Financial Institution

▸ Bank to which the *Bank Act* (Canada) applies;

▸ an authorized foreign bank within the meaning of section 2 of the *Bank Act* in respect of its business in Canada;

▸ a cooperative credit society, savings and credit union, caisse populaire that is regulated by an act of a province or territory of Canada;

▸ association regulated by the *Cooperative Credit Associations Act*;

Financial Institution, continued

▶ a company to which the *Trust and Loan Companies Act* applies;

▶ a loan or trust company regulated by an act of a province or territory; or

▶ a ministry, department or agent of the government of Canada or of a province or territory if it accepts deposit liabilities in the course of providing financial services to the public.

Financial Institution

▶ a subsidiary of one of the above where its financial statements are consolidated with those of the entity;

Financial Entity

▸ means a financial entity headquartered and operating in a country that is a member of the Financial Action Task Force on Money Laundering;

Identification-Individuals

You must obtain:

- full legal name;
- business address;
- business telephone number;
- home address;
- home telephone number;
- occupation(s)

Identification-Organizations

▶ **You need to obtain:**

  ▶ full legal name;

  ▶ business address;

  ▶ business telephone number;

  ▶ incorporation or business identification number and the jurisdiction where issued (except for a public body, financial institution or reporting issuer);

Identification-Organizations

▶ general nature of business or activities engaged in by the client (except for a public body, financial institution or reporting issuer);

▶ name, address and contact info for person giving instructions;

Additional Obligations

▶ We also need to ensure that a lawyer who has retained us as an agent has complied with the client verification procedures before we engage in a non-exempt financial transaction;

Remembering to Get the Identification Information

▶ **Take a copy of the client opening sheet to the initial meeting and keep a copy on your desk;**

▶ **If you are missing any of the required information WE CANNOT OPEN THE FILE;**

If Client is a Reporting Issuer, Public Body or Financial Institution

▶ We do not need the incorporation or business identification number and the place of issue of its incorporation or business identification number;

▶ We do not need the general nature of the type of business or businesses or activity or activities it is engaged in;

File Opening Sheet

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Client Information - Identification

Client/Matter Number _____ Legal Assistant Name _____ Ext _____

Business Type ☐ Proprietorship ☐ Partnership ☐ Limited Co. (Corporation) ☐ Individual

If Individual: ☐ Mr. ☐ Mrs. ☐ Miss ☐ Ms. ☐ Dr.

Client Legal Name _____

Street Address _____

City/Province/Country/Postal Code _____

Home Telephone _____ Fax _____ Mobile _____

If Client is an individual this section must be completed.

Client's Business Address _____

Business Phone Number _____ Occupation(s) _____

E-Mail Address _____ Type of verification ID provided _____

If Client is an organization this section must be completed.

Is the client a financial institution, public body or reporting issuer? ☐ Yes ☐ No If yes, only items 1 & 2 need to be completed.

1. Name of individual(s) providing instructions: _____

2. Position(s) of individuals providing instructions: _____

3. Organization's incorporation or business identification number: _____

4. Place of issue of incorporation or business identification number: _____

5. Nature of the client's business: _____

Matter Description (70): _____

List Potentially Impacted Parties _____

Charge GST? ☐ Yes ☐ No

Client Type: Code _____ Description _____

Client Group: Code _____ Description _____

Matter Type: Code _____ Description _____

Matter Lawyer: Supervising Code _____ Name _____

Billing Code _____ Name _____

Referring Code _____ Name _____

If this client is a business, at least one principal must be named.

_____ Referral Source: _____

Law Society Levy: Litigation _____ Real Estate _____

Billing Format: Text Only _____ Date Text _____ Date Lawyer Text _____ Date Lawyer Time Text _____

Does any Lawyer or their spouse have a beneficial ownership interest in the client? ☐ Yes ☐ No

Collections Contact: Name _____ Title _____

Phone _____ Fax _____

E-Mail _____

Credit Information   Has a conflict search been circulated to the firm by email? ☐ Yes ☐ No Attach copy

Credit Limit Requested: $ _____ Has an estimate/fixed fee been given? ☐ Yes ☐ No

Contingency Matter ☐ Yes ☐ No Contingency Committee Approval _____

Amount of Estimate: $ _____ Retainer Amount Received: $ _____ Retainer Letter Sent? ☐ Yes ☐ No

Is this individual business connected to or operating under any other names? ☐ Yes ☐ No

If so, please list those names: _____ Related File #: _____

Responsible Partner: _____ Partner Confirming Estimate: _____

Credit Department Approval _____

When Do You Need to Verify Identity?

▸ If the client is a reporting issuer, financial institution or public body we do not need to verify or obtain additional identification information;

▸ For other clients we must verify if we engage in or give instructions in respect of receiving or paying or transferring funds unless the transaction is exempt from verification;

Verification, No Trust Transaction

▶ **You need to verify if you assist with a non-exempt transaction even if the money does not go through our trust account;**

▶ **example, client gives you a certified cheque for closing and the cheque is payable to an individual;**

▶ **You must remember to verify but we cannot monitor such situations for you;**

The Exempt Transactions

▸ paid or received from a financial institution, public body or reporting issuer;

▸ received from a Canadian lawyer, in trust;

▸ received from a peace officer, law enforcement agency or other public official;

▸ paid or received pursuant to a court order;

Exempt Transactions, continued

- to pay a fine or penalty;

- paid, received or transferred by electronic funds transfer;

- paid or received as a settlement in any legal or administrative proceeding; AND

- PAID OR RECEIVED FOR PROFESSIONAL FEES, DISBURSEMENTS, EXPENSES OR BAIL.

Insureds

▸ **We need to identify and, where applicable, verify the identity of insureds in two situations:**

  ▸ in respect of a subrogated claim if we are advancing a claim on behalf of the insured (for example, an uninsured or deductible claim);

  ▸ in respect of defence files if the insured has a contractual right to instruct counsel or to control the settlement;

Insureds, continued

▶ We can open a file and defend an insured even if we need but cannot obtain identifying information;

▶ try and obtain it later;

▶ if you need to verify the identity of an insured and cannot find it, please speak to me before engaging in a non-exempt financial transaction;

Blaney's Verification Procedures

▶ **Since verification is tied to our involvement in certain financial transactions we are not going to verify the identity of all clients;**

▶ **We will only verify identify when necessary;**

▶ **Verification will be triggered by a mandatory question on our cheque requisition and deposit forms;**

Requisition and Deposit Forms

▶ **If you cannot tick off one of the exemption boxes on the form, then you will need to complete the appropriate client verification form and submit it with the deposit or requisition;**

Cheque Requisitions

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TRUST ACCOUNT - CHEQUE REQUISITION

Accounting Use Only

Client Verified UDF ☐ Yes ☐ No	Period	Bank Code	Batch No	Cheque No

CLIENT VERIFICATION

Please complete a Client Verification Form unless you are able to tick **one** of the boxes under A or B below:

A. General Exemptions

☐	this matter was opened prior to December 31st, 2008
☐	client previously verified, instructions from client provided by:
☐	the Client is a Financial Institution
☐	the Client is a Public Body
☐	the Client is a Reporting Issuer

B. Transactional Exemptions

☐	funds paid to a Financial Institution, Public Body or Reporting Issuer
☐	funds paid pursuant to a Court Order
☐	funds paid in respect of a Fine or Penalty
☐	funds paid for a Settlement in any existing Proceeding
☐	funds paid for Professional fees, disbursements, expenses or bail

CHEQUE DETAILS

Date _____ Payable To _____

File Number _____ Amount: $_____ CAD / USD Certified Cheque? ☐ Yes ☐ No

Client's Full Name: _____

Matter: _____

Description of Payment _____

Cheque Requisitioned By _____

Equity Partner's Approval _____

Individual Verification

▸ **Must be completed at the time the financial transaction is engaged in;**

▸ **Must see original reliable independent source document and** *obtain a copy***;**

▸ **Best documents are driver's license, birth certificate, passport etc;**

▸ **The document must be current;**

Individual Verification

▸ **Verification may be done by any employee of the firm;**

▸ **Generally, it needs to only be done once;**

▸ **Must be repeated if you do not recognize the individual;**

VERIFICATION OF IDENTITY
(For use where the client or the third party is an individual)

Name: _____

Address: _____

Phone No: _____

Business Address: _____

Business Phone No: _____

Occupation(s) _____

Original Document Reviewed – Copy Attached

☐ Driver's Licence
☐ Birth Certificate
☐ Passport
☐ Other(specify type) _____

Meeting Date Identity Verified: _____

Identity Verified By: _____

Date File Reviewed by Lawyer: _____

Name of Lawyer: _____

Organization Verification

▸ **Three steps:**

  ▸ Use best efforts to obtain additional identification information;

  ▸ Verify the identity of the organization;

  ▸ Verify the identity of the person providing instructions;

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VERIFICATION OF IDENTITY
(For use where the client or the third party is an organization)

Name: _____

Business Address: _____

Business Phone No: _____

Incorporation or Business Identification No: _____

Place of Issue of No: _____

Type of Business or Activity: _____

Person Authorized to Instruct

Name: _____

Position: _____

Phone No: _____

Original Document Reviewed – Copy Attached

☐ Driver's Licence
☐ Birth Certificate
☐ Passport
☐ Other(specify type) _____

Names and Occupation(s) of Directors* (maximum of 500 characters)

_____

Names, Addresses and Occupation(s) of Owners or Shareholders owning a 25% interest or more of the organization or shares in the organization* (maximum of 500 characters)

_____

Original Document Reviewed – Copy Attached*

☐ Certificate of Corporate Status

☐ Annual Filings of the Organization (specify type) _____

☐ Partnership Agreement

☐ Trust Agreement

☐ Articles of Association

☐ Other (specify type) _____

Meeting Date Identity Verified: _____

Identity Verified By: _____

Date File Reviewed by Lawyer: _____

Name of Lawyer: _____
*If you are unable to acquire this information please outline what reasonable steps you took to attempt to acquire the information:
_____
_____
_____