

(4) The Society and subject member or former subject member on whose account the deductible amount was paid may enter an agreement for the repayment of the deductible amount to the Society. The agreement may provide for the member's automatic suspension to be lifted.

(5) A member who defaults under an agreement referred to subrule (4) is automatically suspended until the default has been remedied and the member is notified in writing by the Executive Director that the suspension is lifted.

### ***Administration***

153. The Society may enter an agreement with another governing body to administer the group insurance contract or professional liability claims against subject members and the Society.

## **Division 16 - Books, Records and Accounts**

### ***Interpretation***

154. In this Division

“expenses” means costs incurred by a member or member's law firm in connection with the provision of legal services to a client which will be reimbursed by the client;

“money” includes cash, cheques, drafts, credit card transactions, post office orders, express and bank money orders, and electronic transfer of deposits at financial institutions;

“trust account” means an interest-bearing account at a financial institution that a member maintains in their name, or that is maintained in the name of the member's law firm, and that the member or the member's law firm designates as a trust account;

“trust money” means money received by a member that

(a) is directly related to legal services that the member or the member's law firm is providing; and

(b) is to be held in trust for a client or other person, and includes money advanced to a member on account for

(i) fees for services not yet provided,

(ii) disbursements not yet made, and

(iii) expenses not yet incurred.

### ***Trust accounts***

155. (1) A member who receives trust money must immediately pay the money into a trust account.

(2) A member must only pay into a trust account money that is

(a) trust money; or

(b) money paid to the member which is in part trust money and in part money belonging to the member where it is not practicable to split the payment, however the portion of money belonging to the member must be drawn from the trust account as soon as practicable.

(3) A member who discovers that money has been mistakenly drawn from a trust account must immediately deposit sufficient money in the account to replace the amount mistakenly drawn and, as soon as practicable, report the mistake to the Executive Director in Form 17, specifying the amount mistakenly drawn and the circumstances.

***For greater certainty***

156. For greater certainty, a member must not pay into a trust account money that

(a) belongs entirely to the member or to others in the member's law firm, including an amount received as a general retainer for which the member is not obligated either to account or to provide services;

(b) is received by the member on account of fees for which a billing has been rendered; or

(c) is received to reimburse the member for disbursements that have been made or expenses that have been incurred on behalf of a client.

***Drawing money from trust accounts***

157. (1) A member must not draw money from a trust account unless the money

(a) is properly required for payment to or on behalf of a client;

(b) is required to reimburse the member for disbursements or expenses properly made or incurred on behalf of a client for which a billing has been rendered;

(c) is properly required for or toward payment of the member's fees for which a billing has been rendered;

(d) is directly transferred into another trust account and held on behalf of the client; or

(e) was paid into the account by mistake.

(2) Money in a member's trust account to which a member becomes entitled under subrule (1)(b) or (c) must be drawn from the account as soon as practicable. However, in no case shall the money drawn exceed the balance of the money held in the trust account for the client.

(3) Money drawn from a trust account under subrule (2) must only be drawn

(a) by a cheque made out in the name of the member or the member's law firm; or

(b) by a transfer to an account at a financial institution that is in the name of the member or the member's law firm and that is not a trust account.

### ***Trust cheques***

158. (1) Unless otherwise authorized by the Executive, a cheque drawn on a trust account must be signed by at least one person who is an active member.

(2) A cheque drawn on a trust account must not be made payable to "cash" or "to bearer".

### ***Maintain sufficient trust money***

159. (1) A member must maintain at all times sufficient money in the member's trust accounts to meet all obligations respecting the trust money held by the member.

(2) For the purposes of subrule (1), cash, a certified cheque or cheque negotiable by the member or a cheque drawn by the member on the member's trust account, in the possession and control of the member, is deemed to be money held in a trust account if the cash or cheque is deposited in the trust account no later than the next banking day.

### ***Directions for trust account***

160. (1) A member must, in relation to each trust account maintained in Yukon by the member or the member's law firm, provide the following directions in writing to the financial institution at which the trust account is maintained:

(a) the trust account is to be interest bearing and the interest paid on the account is to be remitted to the Foundation;

(b) the rate and manner of calculating interest, and any service charges or other fees to be deducted from the interest payable to the Foundation, will be as agreed to by the financial institution and the Foundation;

- (c) the financial institution is to provide trust account statements to the member;
- (d) the account is to be designated as a “trust” account in the records of the financial institution;
- (e) the financial institution is authorized and directed to provide the Foundation with information requested by the Foundation to verify the interest paid to the Foundation has been properly calculated, including:
  - (i) account balance information;
  - (ii) the interest rate and the gross interest earned;
  - (iii) service charges deducted; and
  - (iv) the net interest paid after deduction of service charges.

(2) A member must provide the Society and the Foundation with a copy of the directions provided to a financial institution under subrule (1).

(3) Nothing in subrule (1) affects a written arrangement, whenever made, between a member and a client respecting the application of the client’s money or the interest on it.

***Other written arrangements***

161. (1) A member is not required to pay money into a trust account that a client has, in a written arrangement with the member, directed the member to hold or deposit elsewhere.

(2) Money referred to in subrule (1) that is not paid into a trust account must be shown and accounted for separately in the books and records of the member.

***Annual CDIC Report***

162. A member who holds pooled trust money in a financial institution insured by the Canadian Deposit Insurance Corporation must file an annual report for each account maintained by the member with that institution in accordance with subsection 3(3) of the Schedule to the *Canada Deposit Insurance Corporation Act* (Canada), so that the moneys held in trust for each client, rather than the account itself, are insured up to the limit of deposit insurance available under that Act.

***Maintenance of books, records, and accounts***

163. (1) A member must maintain books, records and accounts in connection with the member’s provision of legal services to record all money and other property received, withdrawn, disbursed, returned or disposed of.

(2) The books, records and accounts maintained by the member under subrule (1) must include

(a) a book of original entry in chronological order showing the date of receipt of trust money, from whom the money was received, for which client the money was received, the amount of money received, and the method by which the money was received by the member or member's law firm;

(b) a book of original entry in chronological order showing every withdrawal out of trust money, the date of each withdrawal, the client on whose behalf each withdrawal of trust money is made, the amount of the withdrawal, the method of withdrawal including cheque number if applicable, and the name of each recipient;

(c) a client trust ledger showing separately for each person on whose behalf trust money is received, the amount of money received and withdrawn and any unexpended balance;

(d) a record showing all transfers of money between clients' trust ledger accounts, detailing from which trust ledger and to which trust ledger money was transferred, the amount of the transfer, and explaining the purpose for which each transfer was made;

(e) a book of original entry in chronological order showing the date of receipt of money other than trust money, from whom the money was received, for which client the money was received, the amount of money received, and the method by which the money was received by the member or member's law firm;

(f) a book of original entry in chronological order showing every withdrawal of money other than trust money, the date of each withdrawal, the client on whose behalf each withdrawal is made, the amount of the withdrawal, the method of withdrawal including cheque number if applicable, and the name of each recipient;

(g) a fees book or chronological file of copies of billings showing all fees charged and other billings to clients, the dates the charges were made, and identifying the clients so charged;

(h) a record printed, dated, and signed monthly by the member, showing a comparison of the total of balances held in trust accounts of the member or member's law firm and the total of all unexpended trust account balances as they appear from the books and records, together with an explanation for any differences between the totals, supported by

- (i) a detailed listing made monthly showing the amount of trust money held for each client and identifying each client for whom trust money is held;
- (ii) a detailed reconciliation made monthly of each trust account; and
- (iii) a record showing all property, other than money, held in trust from time to time for each client;

- (i) bank statements, cashed cheques, or printed or electronic copies of both sides of the cheques, and detailed duplicate deposit slips for all trust and general accounts;
- (j) a chronological fees and disbursements receivable ledger showing the member-client position for each client, the billings rendered, payments on account and a continual running balance; and
- (k) a record, printed, dated, and signed monthly by the member, showing a comparison of the total of balances held in accounts other than trust accounts of the member or the member's law firm and the total of all unexpended account balances as they appear on the books and records, together with an explanation for any differences between the totals.

(3) A member who receives cash for a client must also maintain a separate book of duplicate receipts, with each receipt identifying the date on which cash is received, the person from whom cash is received, the amount of cash received, the client from or for whom cash is received, any file number in respect of which cash is received and containing the signature of the person authorized by the member to receive cash and of the person from whom cash is received.

(4) The monthly trust comparison record required by subrule (2)(h) must be completed no later than 30 days after the relevant month end.

(5) A member must reconcile their general accounts each month, no later than 30 days after the relevant month end.

(6) The books, records, and accounts required under subrules (2) and (3)

- (a) may be entered and posted by hand or by mechanical or electronic means, but if entered and posted by hand, they must be entered and posted in ink;
- (b) must be maintained and kept current at all times; and
- (c) must be kept by the member in paper copy, or in an electronic or machine-readable form from which a paper copy can be readily produced, for at least six years following the member's most recent financial year end.

### ***Notice of financial year end***

164. (1) An active member in private practice who is resident in Yukon must, as soon as practicable after beginning private practice, notify the Executive Director in writing of the member's financial year end.

(2) An active member in private practice who is not resident in Yukon, but maintains a trust account in Yukon, must, as soon as practicable after opening the trust account, notify the Executive Director in writing of the member's financial year end.

(3) An active member in private practice required to notify the Executive Director of their financial year end under subrules (1) or (2) must notify the Executive Director in writing of any change to the date of their financial year end within 30 days after the change is made.

### ***Notice of opening a trust account***

165. An active member without a trust account in Yukon who opens a trust account in Yukon must notify the Executive Director in writing as soon as practicable that the account has been opened.

### ***Year-end reporting***

166. (1) An active member in private practice who is resident in Yukon must file with the Society within six months after the member's financial year end

(a) a certification in Form 18; and

(b) if the member had a trust account in Yukon at any time during the financial year, a trust account report in Form 19 completed and signed by a chartered professional accountant and by the member in respect of each practice the member was associated with since their last filing.

(2) An active member in private practice who is not resident in Yukon who had a trust account in Yukon at any time during the member's financial year must file with the Society, within six months after the member's financial year end, a certification in Form 18 and a trust account report in Form 19 completed and signed by a chartered professional accountant and by the member in respect of each practice for which the member had a trust account in Yukon since their last filing.

(3) A member who does not file a certification in Form 18 or a trust account report in Form 19 as required by subrules (1) or (2) is automatically suspended until the required forms have been filed and the member is notified in writing by the Executive Director that the suspension is lifted.

(4) The Executive may extend the time for filing a form under subrules (1) or (2) if

(a) the member requests a time extension in writing prior to the deadline for filing; and

(b) the Executive is satisfied there are special circumstances and that it would be reasonable to do so.

(5) A member who does not file a form within the time set by the Executive under subrule (4) is automatically suspended until the form is filed and the member is notified in writing by the Executive Director that the suspension is lifted.

***Books, records and accounts audits, reviews, etc.***

167. (1) The Executive may, on the basis of random selection or any other basis, designate a chartered professional accountant or other person to audit, review, or examine the books, records and accounts of a member or a member's firm.

(2) A member whose books, records and accounts are subject of an audit, review or examination under subrule (1) must immediately make them fully available for examination by the person designated by the Executive.

**Division 17 - Cash Transactions and Client Identification and Verification**

***Interpretation***

168. In this Division

“credit union central” means a central cooperative credit society, as defined in section 2 of the *Cooperative Credit Associations Act* (Canada), or a credit union central or a federation of credit unions or caisses populaires that is regulated by a provincial Act other than one enacted by the legislature of Quebec;

“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;

“expenses” has the meaning assigned in rule 154;

“financial institution” means

(a) a bank that is regulated by the *Bank Act* (Canada);



- (b) an authorized foreign bank within the meaning of section 2 of the *Bank Act* (Canada) in respect of its business in Canada;
- (c) a cooperative credit society, savings and credit union or caisse populaire that is regulated by a provincial Act;
- (d) an association that is regulated by the *Cooperative Credit Associations Act* (Canada);
- (e) a financial services cooperative that is regulated by *An Act respecting financial services cooperatives, CQLR, c. C-67.3*, or *An Act respecting the Mouvement Desjardins, S.Q. 2000, c.77*, other than a caisse populaire;
- (f) a credit union central;
- (g) a company that is regulated by the *Trust and Loan Companies Act* (Canada);
- (h) a trust company or loan company regulated by a provincial Act;
- (i) a department or an entity that is an agent of Her Majesty in right of Canada or of a province when it accepts deposit liabilities in the course of providing financial services to the public; or
- (j) a subsidiary of the financial institution whose financial statements are consolidated with those of the financial institution.

“funds” mean cash, currency, securities and negotiable instruments or other financial instruments that indicate the person’s title or right to or interest in them;

“organization” means a body corporate, partnership, fund, trust, co-operative or an unincorporated association;

“professional fees” means amounts billed or to be billed to a client for legal services provided or to be provided to the client by the lawyer or the lawyer’s law firm;

“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 in Canada or an agent in Canada of any of them;
- (c) a council of a municipality incorporated under the *Municipal Act*, or similar body incorporated under the law of another province;

- (d) an organization that operates a public hospital authority and that is designated by the Minister of National Revenue as a hospital under the *Excise Tax Act* (Canada) or an agent of the organization;
- (e) a body incorporated by or under an Act of a province of Canada for a public purpose;
- (f) a subsidiary of a public body whose financial statements are consolidated with those of the public body; or
- (g) a Yukon First Nation named in section 1 of the *First Nations (Yukon) Self-Government Act*.

“reporting issuer” means an organization that is a reporting issuer within the meaning of the securities laws of any province of Canada, or a corporation whose shares are traded on a stock exchange that is designated under section 262 of 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;

“securities dealer” means persons or entities 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, other than persons who act exclusively on behalf of such an authorized person or entity.

### ***Cash transactions***

169. (1) A lawyer must not receive or accept cash in an aggregate amount greater than \$7,500 Canadian in respect of any one client matter.

(2) For the purposes of this rule, when a lawyer receives or accepts cash in a foreign currency the lawyer will be deemed to have received or accepted the cash converted into Canadian dollars at

- (a) the official conversion rate of the Bank of Canada for the foreign currency as published in the Bank of Canada’s Daily Noon Rates that is in effect at the time the lawyer receives or accepts the cash; or
- (b) if the day on which the lawyer receives or accepts the cash is a holiday, the official conversion rate for the Bank of Canada in effect on the most recent business day preceding the day the lawyer receives or accepts the cash.

(3) Subrule (1) applies when a lawyer engages on behalf of a client or gives instructions on behalf of a client in respect of the following activities:

- (a) receiving or paying funds;

(b) purchasing or selling securities, real properties or business assets or entities;

(c) transferring funds by any means.

(4) Despite subrule (3), subrule (1) does not apply when a lawyer receives cash in connection with the provision of legal services by the lawyer or the lawyer's firm

(a) from a financial institution or public body;

(b) from a peace officer, a law enforcement agency, or a public official acting in their official capacity;

(c) to pay a fine, penalty, or bail; or

(d) for professional fees, disbursements, or expenses, provided that any refund out of such receipts is also made in cash.

***Requirement to identify client***

170. (1) Subject to subrule (3), a lawyer who is retained by a client to provide legal services must comply with the requirements of rules 171 to 182 in keeping with the lawyer's obligation to know their client, understand the client's financial dealings in relation to the retainer with the client and manage any risks arising from the professional business relationship with the client.

(2) A lawyer's responsibilities under rules 171 to 181 may be fulfilled by any member, associate or employee of the lawyer's firm, wherever located.

(3) Rules 171 to 181 do not apply to

(a) a lawyer when they provide legal services or engage in or give instructions in respect of any of the activities described in rule 172 on behalf of their employer;

(b) a lawyer

(i) who is engaged as an agent by the lawyer for a client to provide legal services to the client, or

(ii) to whom a matter for the provision of legal services is referred by the lawyer for a client, when the client's lawyer has complied with rules 171 through 181; or

- (c) 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.

### ***Client identity***

171. A lawyer who is retained by a client as described in subrule 170(1) must obtain and record, with the applicable date, the following information:

- (a) for individuals:
  - (i) the client's full name;
  - (ii) the client's home address and home telephone number;
  - (iii) the client's occupation or occupations; and
  - (iv) the address and telephone number of the client's place of work or employment, where applicable;
- (b) for organizations:
  - (i) the client's full name, business address and business telephone number;
  - (ii) 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;
  - (iii) other than a financial institution, public body or a reporting issuer, the general nature of the type of business or businesses or activity or activities engaged in by the client, where applicable; and
  - (iv) the name and position of and contact information for the individual who is authorized to provide and gives instructions to the lawyer with respect to the matter for which the lawyer is retained;
- (c) if the client is acting for or representing a third party, information about the third party as set out in subrules (a) or (b) as applicable.

### ***When verification of client identity required***

172. Subject to rule 173, rule 174 applies where a lawyer 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.

***Exemptions re: certain funds***

173. Rule 174 does not apply

- (a) where the client is a financial institution, public body or reporting issuer;
- (b) in respect of funds,
  - (i) paid by or to a financial institution, public body or a reporting issuer;
  - (ii) received by a lawyer from the trust account of another lawyer;
  - (iii) received from a peace officer, a law enforcement agency, or a public official acting in their official capacity;
  - (iv) paid or received to pay a fine, penalty, or bail; or
  - (v) paid or received for professional fees, disbursements, or expenses; or
- (c) to an electronic funds transfer.

***Client verification and independent source documents, etc.***

174. (1) When a lawyer is engaged in or gives instructions in respect of any of the activities described in rule 172, the lawyer must

- (a) obtain from the client and record, with the applicable date, information about the source of funds described in rule 172, and
- (b) verify the identity of the client, including the individual(s) described in subrule 171(b)(iv), and, where appropriate, the third party using the documents or information described in subrule (6).

(2) A lawyer may rely on an agent to obtain the information described in subrule (6) to verify the identity of an individual client, third party or individual described in subrule 171(b)(iv) provided the lawyer and the agent have an agreement or arrangement in writing for this purpose as described in subrule (4).

(3) Despite subrule (2), where an individual client, third party or individual described in subrule 171(b)(iv) is not physically present in Canada, a lawyer must rely on an agent to obtain the information described in subrule (4) to verify the person's identity provided the lawyer and the agent have an agreement or arrangement in writing for this purpose as described in subrule (4).

(4) A lawyer who enters into an agreement or arrangement referred to in subrule (2) or (3) must:

(a) obtain from the agent the information obtained by the agent under that agreement or arrangement; and

(b) satisfy themselves that the information is valid and current and that the agent verified identity in accordance with subrule (6).

(5) A lawyer may rely on the agent's previous verification of an individual client, third party or an individual described in subrule 171(b)(iv) if the agent was, at the time they verified the identity,

(a) acting in their own capacity, whether or not they were required to verify identity under this Division, or

(b) acting as an agent under an agreement or arrangement in writing, entered into with another lawyer who is required to verify identity under this Division or equivalent provisions in another province, for the purpose of verifying identity under subrule (6).

(6) For the purposes of subrule (1)(b), the client's identity must be verified by referring to the following documents, which must be valid, original and current, or the following information, which must be valid and current, and which must not include an electronic image of a document:

(a) if the client or third party is an individual,

(i) an identification document containing the individual's name and photograph that is issued by the federal government, a provincial government or a foreign government, other than a municipal government, that is used in the presence of the individual to verify that the name and photograph are those of the individual;

(ii) information that is in the individual's credit file if that file is located in Canada and has been in existence for at least three years that is used to verify that the name, address and date of birth in the credit file are those of the individual;

(iii) any two of the following with respect to the individual:

(A) information from a reliable source that contains the individual's name and address that is used to verify that the name and address are those of the individual;

(B) information from a reliable source that contains the individual's name and date of birth that is used to verify that the name and date of birth are those of the individual; or

(C) information that contains the individual's name and confirms that they have a deposit account or a credit card or other loan amount with a financial institution that is used to verify that information.

(b) if the client or third party is an organization 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 names of its directors, 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, 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.

175. For the purposes of subrule 174(6)(a)(iii)(A) to (C), the information referred to must be from different sources, and the individual, lawyer and agent cannot be a source.

176. (1) To verify the identity of an individual who is under 12 years of age, the lawyer must verify the identity of one of their parents or their guardian.

(2) To verify the identity of an individual who is at least 12 years of age but not more than 15 years of age, the lawyer may refer to information under subrule 174 (6)(a)(iii)(A) that contains the name and address of one of the individual's parents or their guardian and verifying that the address is that of the individual.

177. (1) When a lawyer is engaged in or gives instructions in respect of any of the activities in rule 172 for a client or third party that is an organization referred to in subrule 174(6)(b) or (c), the lawyer must:

- (a) obtain and record, with the applicable date, the names of all directors of the organization, other than an organization that is a securities dealer; and
- (b) make reasonable efforts to obtain, and if obtained, record with the applicable date,

- (i) the names and addresses of all persons who own, directly or indirectly, 25 per cent or more of the organization or of the shares of the organization;
- (ii) the names and addresses of all trustees and all known beneficiaries and settlors of the trust; and
- (iii) in all cases, information establishing the ownership, control and structure of the organization.

(2) A lawyer must take reasonable measures to confirm the accuracy of the information obtained under subrule (1).

(3) A lawyer must keep a record, with the applicable date(s), that sets out the information obtained and the measures taken to confirm the accuracy of that information.

(4) If a lawyer is not able to obtain the information referred to in subrule (1) or to confirm the accuracy of that information in accordance with subrule (2), the lawyer must

- (a) take reasonable measures to ascertain the identity of the most senior managing officer of the organization;
- (b) determine whether
  - (i) the client's information in respect of their activities,
  - (ii) the client's information in respect of the source of the funds described in rule 172, and
  - (iii) the client's instructions in respect of the transaction,are consistent with the purpose of the retainer and the information obtained about the client as required by this Division;
- (c) assess whether there is a risk that the lawyer may be assisting in or encouraging fraud or other illegal conduct; and
- (d) keep a record, with the applicable date, of the results of the determination and assessment under subrules (b) and (c).

***Timing for verifying identification***

178. (1) A lawyer must verify the identity of

- (a) a client who is an individual, and



(b) the individual(s) authorized to provide and giving instructions on behalf of an organization with respect to the matter for which the lawyer is retained,

upon engaging in or giving instructions in respect of any of the activities described in rule 172.

(2) Where a lawyer has verified the identity of an individual, the lawyer is not required subsequently to verify that same identity unless the lawyer has reason to believe the information, or the accuracy of it, has changed.

(3) A lawyer must verify the identity of a client that is an organization upon engaging in or giving instructions in respect of any of the activities described in rule 172, but in any event no later than 30 days thereafter.

(4) Where a lawyer has verified the identity of a client that is an organization and obtained information under subrule 177(1), the lawyer is not required to subsequently verify that identity or obtain that information, unless the lawyer has reason to believe the information, or the accuracy of it, has changed.

### ***Record keeping and retention***

179. (1) A lawyer must obtain and retain a copy of every document used to verify the identity of any individual or organization for the purposes of subrule 174(1).

(2) The documents referred to in subrule (1) may be kept in a machine-readable or electronic form, if a paper copy can be readily produced from it.

(3) A lawyer must retain a record of the information, with the applicable date, and any documents obtained for the purposes of rule 171 and subrules 177(1) and 181(b), and copies of all documents received for the purposes of subrule 174(1), 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) a period of at least six years following completion of the work for which the lawyer was retained.

### ***Application***

180. Rules 170 through 179 do not apply to matters in respect of which a lawyer was retained before December 31, 2008, but they do apply to all matters for which the lawyer is retained after that time regardless of whether the client is a new or existing client.

### ***Monitoring***

181. During a retainer with a client in which the lawyer is engaged in or gives instructions in respect of any of the activities described in rule 172, the lawyer must:

- (a) monitor on a periodic basis the professional business relationship with the client for the purposes of:
  - (i) determining whether
    - (A) the client's information in respect of their activities,
    - (B) the client's information in respect of the source of the funds described in rule 172, and
    - (C) the client's instructions in respect of transactions,are consistent with the purpose of the retainer and the information obtained about the client as required by this Division; and
  - (ii) assessing whether there is a risk that the lawyer may be assisting in or encouraging fraud or other illegal conduct;
- (b) keep a record, with the applicable date, of the measures taken and the information obtained with respect to the requirements of subrule (a)(i).

***Criminal activity, duty to withdraw***

182. A lawyer must withdraw from representing a client if
- (a) in the course of obtaining the information and taking the steps required in rule 171 and subrules 174(1), 177(1) or 177(4), or
  - (b) at any time while retained by a client, including taking the steps required under rule 181,

the lawyer knows or ought to know that they are or would be assisting the client in fraud or other illegal conduct.

## **Division 18 - Professional Corporations**

***Application***

183. (1) An eligible corporation as described in subsection 151(2) of the Act may apply to the Executive to be issued a permit under section 152 of the Act.
- (2) An application under subrule (1) must be in Form 20 and be accompanied by