Client Identification and Verification:
What you need to know

January 21, 2025

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Agenda

- **Understanding the Problem**
  The background of Money Laundering

- **Anti-Money Laundering Rules**
  CIV Changes

- **Examples**
  Examples of how the new rules apply

- **Questions**

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Understanding the Problem
An overview of Money Laundering
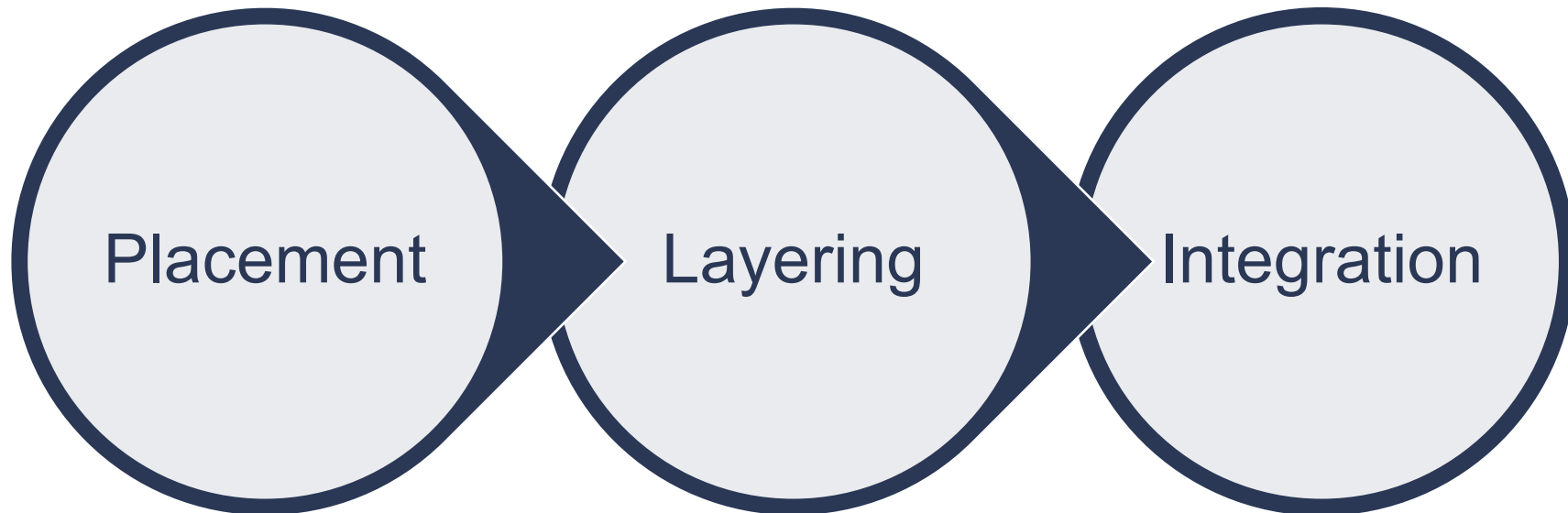
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What is Money Laundering?

- Money Laundering – Proceeds "Of" Crime

- Terrorist Financing – Proceeds "For" Crime

Stages of Money Laundering?

Typically, criminals use three stages to launder money.

Why Do Criminals Target the Trust Accounts?

- Legal services may be required to complete certain financial transaction or specialized legal skills

- Legal professionals lend respectability and legitimacy to a given transaction

- Information about funds may be protected from disclosure due to client confidentiality and solicitor-client privilege

- Depositing funds in a legal professional's trust account can obscure the identity of the true owners

- Trust accounts can be used at various money laundering stages: placement, layering, and integration

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Understanding the Volume and Risk

- Between US$800B and US$2T is money laundered globally annually

- CAD $190B flowed through lawyer's trust accounts in AB in 2023

- Five-year average of $150B flows through lawyers' trust accounts

- 3638 active pooled trust accounts

FATF: What is It? and What do they do?

The Financial Action Task Force (FATF)

- Created in 1989 to coordinate international efforts to combat money laundering

- Comprises of 40 member countries

- Global standards for anti-money laundering (AML) were issued in 1990

- Canada has been a member of FATF – since 1990

- FATF conducts "mutual evaluations" on member countries to assess compliance with FATF Recommendations.

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Legal Profession Regulatory Evolution

1990 - 2000's	2015 / 2016	2018 / 2019	2022	2024 / 2025
• PCMLTFA • Litigation – FLSC and LSBC • Initial adoption of Model Rules by Law Societies	• Supreme Court Decision - AML requirements found to breach solicitor-client privilege • FATF Mutual Evaluation • AML Working Group	• Adoption of model rule amendments by Law Societies • Joint Working Group – FLSC and Dept. Of Fin	• Final report from the Cullen Commission	• AML - NDS • CIV rule amendment • FATF mutual evaluation

FATF MER 2016

The mutual evaluation report outlined several deficiencies that Canada needs to address

- One of the deficiencies raised by FATF evaluators

    "Legal persons and arrangements are at a high risk of misuse, and that risk is not mitigated. Major weakness was the fact that the legal profession is not covered by the PCMLTFA……."

Anti-Money Laundering Rules: CIV Changes

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AML Model Rules

1. Trust Accounting Rule

2. No Cash Rule

3. Client Identification

4. Client Verification

Client Identification Rule 119.47

For Individuals:

- Name
- Home address and phone number
- Occupation
- Business address and business phone number

For Organizations:

- Full name, business address and business phone number
- Incorporation or business identification number and place of issue
- General nature of the type of business
- Name, position, contact information for individual authorized to provide and give instructions

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Client Verification Rule 119.48 – 119.50

When the retainer involves engaging in or giving instructions in respect of the **receiving, paying or transferring of funds** (i.e., a financial transaction), you must verify the identity of:

- your client,
- third parties that the client is acting for or representing,
- for organizations, each individual authorized to provide and who gives instructions.
- Exemptions apply

Client Verification Exemptions

- the client or third party is a financial institution, public body, or reporting issuer;

- the funds used in the transaction are:

  o received for **professional fees,** disbursements, or expenses

  o paid by or to a financial institution, public body, or reporting issuer

  o received from the trust account of another legal professional

  o received from a peace officer, **law enforcement agency**, or other public official acting in their official capacity

  o received to pay **a fine, penalty, or bail**

- transferred by *electronic funds transfer – definition Rule119.45 (c)*

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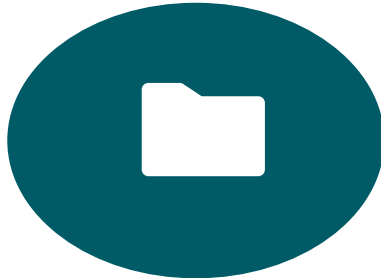# Methods to verify an Individual

3 options to verify

1 Government-Issued Photo Identification

2 Credit File Method

3 Dual Method Process

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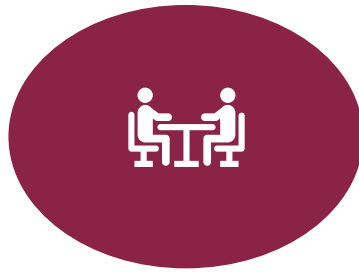
Client Verification: Rule Change

- Remove COVID temporary relaxation

- NEW digital verification of Government Issued Photo ID via technology platform

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Government-Issued Photo ID

Document must be authentic, valid and current

In-Person

Virtually

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Digital Identification and Authentication Council of Canada (DIACC)

DIACC "is a non-profit coalition of public and private sector leaders committed to developing a Canadian framework for digital identification and authentication".

- [Digital ID & Authentication Council of Canada](#)
- [Member Service Directory](#)

Examples

Example 1

Your client has been charged with a crime and is currently in custody. You will have trust funds to cover your fees and to pay for your client's bail. How are you going to verify their identity? They won't have their ID with them in custody.

Considerations:

- Rule 119.49(2)(d) - exemption if the funds are a fine, penalty or bail.
- Rule 119.49(2)(e) - exemption if the funds are for professional fees, disbursements or expenses.

Example 2

Your client has retained you to draft their will and estate planning documents. They would like to sign the documents remotely. The funds you receive from this client are just for your fees.

Considerations:

- Rule 119.49(2)(e) - exemption if the funds are for professional fees, disbursements or expenses.

- Affidavit of Execution

Example 3

Your clients have retained you to handle the purchase of their first home. They will need to sign the documents remotely because they are visiting family in Ontario. The clients will pay for the home with some of their own funds and will also obtain a mortgage.

Considerations:

- No exemptions apply, you must verify the client's identity.
- Which ID Verification service provider should you use?

Variation:

- Prior to leaving, the clients were in your office to drop off some funds and you took copies of the ID at that time. You will still have to sign the documents remotely because you do not have the mortgage instructions yet.

Questions

Law Society of Alberta

Quick Links

- [Anti-Money Laundering - Law Society of Alberta](#)
- [Client Identification and Verification - Law Society of Alberta - FAQ](#)
- [Client Identification and Verification Flowchart](#)
- [Virtually Verifying your Client's Identity](#)
- [CIV_InPersonvsDigital_OnePager](#)
- [Source of Funds Guidance](#)
- [AML Monitoring Guidance](#)
- [Online Learning Program, "Anti-Money Laundering and Terrorist Financing in the Canadian Legal Profession"](#)
- [Risk Assessment Case Studies for the Legal Profession](#)

AB Code of Professional Conduct

- Integrity: 2.1-1

- Competence: 3.1-2

- Fraud by Client or Others: 3.2-13 and 3.2-14

- Obligatory Withdrawal: 3.7-5

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Risk Advisories for the Legal Profession: Advisories to Address the Risks of Money Laundering and Terrorist Financing

Specific areas of practice are more vulnerable to money laundering and terrorist financing. Lawyers working in real estate, shell corporations, private lending, trusts and litigation need to be aware of specific risks that are more likely to arise in their practice area and be able to recognize where additional due diligence may be required.

The Federation of Law Societies of Canada, in conjunction with the Anti-Money Laundering and Terrorist Financing Working Group, has created specific Risk Advisories related to each of the abovementioned areas of practice. Each Advisory identifies the specific situations and issues that make that area of practice vulnerable to criminals and provides a detailed list of potential client and transaction risks lawyers need to be aware of when engaging in the practise of law.

- Real Estate

- Trusts

- Private Lending

- Shell Corporations

- Litigation