



Law Society
of Ontario

Barreau
de l'Ontario

Anti-Money Laundering Best Practices - Your Questions Answered

CO-CHAIRS

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Law Society of Ontario

June 2, 2023



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May 1, 2023

Anti-Money Laundering Best Practices - Your Questions Answered



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June 2, 2023

11:00 a.m. to 12:00 p.m.

Total CPD Hours = 1 h Professionalism P

Webcast Only

SKU CLE23-00607

Agenda

11:00 a.m. – 11:05 a.m. Welcome and Introductions

**11:05 a.m. – 11:15 a.m. Overview of Key Client Identification and Verification
Requirements**

11:15 a.m. – 12:00 p.m.

Answers to Questions Submitted in Advance

12:00 p.m.

Program Ends

Anti-Money Laundering Best Practices - Your Questions Answered

June 2, 2023

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TAB 1

Anti-Money Laundering Best Practices - Your Questions Answered

Law Society AML Resources

8 Tips to Help Verify the Identity of an Individual

**Phil Brown, Senior Counsel, Practice Management,
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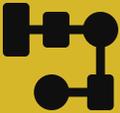
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Law Society of Ontario

June 2, 2023



Law Society AML Resources

The below Law Society resources can help you understand and comply with your client identification and verification obligations.



Flowchart

Overview of the steps required to comply with ID/Verify Requirements



File Forms

File Forms to record steps taken to comply with ID/Verify, source of funds and monitoring obligations



Glossary

Definitions for common AML terms



Precedent

Sample agreement for using an agent to help identify or verify the identity of an individual



Examples

Examples of appropriate government-issued photo ID and reliable sources of information



Worksheet

Worksheet to help spot red flags of fraud and other illegal conduct and record due diligence efforts



FAQs

Over 100 Frequently Asked Questions on ID/Verify, source of funds, and monitoring



Case Studies

Case studies to learn how to identify red flags and what steps to take when faced with a possible fraud



8 Tips to Help Verify the Identity of an Individual



#1.

Does the client have an Ontario driver's license? If so, confirm its status [here](#).



#5.

Compare the photo on the ID to the client and check for noticeable differences (e.g. facial features)



#2.

Check if the person has a neutral expression in their photo ID as this is usually a requirement



#6.

Check for inconsistencies in the numbers and letters (weight, font, and colour) on the ID



#3.

Look for differences in the how the client's name is spelled on the ID



#7.

Visit the [AGCO's website](#) for tips on checking photo ID in-person



#4.

Check the signature on the ID and see if it is similar to your clients



#8.

If verifying identity virtually or viewing ID from a different country consider utilizing [authentication technology](#) to help detect fraud





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TAB 2

Anti-Money Laundering Best Practices - Your Questions Answered

Anti-Money Laundering (AML)
Best Practices and Your Questions Answered
(PowerPoint)

**Phil Brown, Senior Counsel, Practice Management,
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June 2, 2023



June 2, 2023

Practice Supports & Resources

Anti-Money Laundering (AML) Best Practices and Your Questions Answered

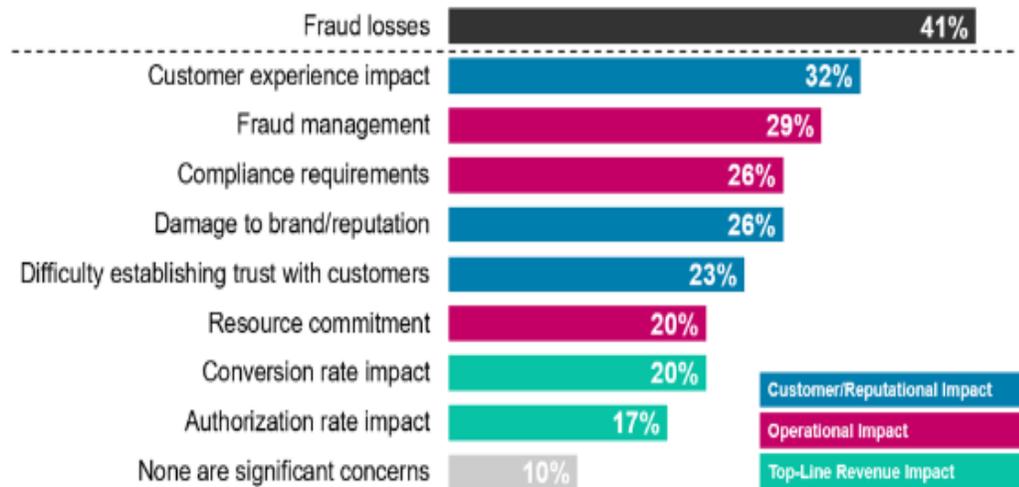


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Why AML Regulation Matters

Fraud is about much more than financial losses



Q. Which of the following, if any, are significant concerns as it relates to the impact of fraud on your business? Please select all that apply. (n=263)
Source: 451 Research's Voice of the Enterprise Customer Experience and Commerce, Meridian Study Q2 2020

451 Research
Part of S&P Global Market Intelligence

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Fraud is about much more than financial losses 451 RESEARCH, PART OF S&P GLOBAL MARKET INTELLIGENCE

- Money laundering is a serious and rapidly evolving problem in Canada
- Fraudsters don't discriminate – they target **everyone**
- Countering money laundering and being vigilant takes time, money, and resources
- But the **consequences can be far worst** and way more expensive

Let's Bust Some Common AML Myths

AML Myth #2

X You are not required to identify your client if they don't have photo ID or are unhoused or unemployed.



AML Myth #3

X Real estate lawyers do not need to verify their client's identity if the real estate agent, mortgage broker, or lender to the transaction has already taken these steps.



AML Myth #4

X Licensees must always ask for documentation that supports the client's explanation for the source of funds being received, paid, or transferred on the client's behalf.

DEPOSIT SLIP
RBC
Royal Bank
(Bahamas) Limited

DATE _____
REPORTOR'S INITIALS _____
TELLER'S INITIALS _____

DETAILS	CASH USD	DETAILS	CASH KYD	DETAILS	CASH BSD	CHEQUES
x 1		x 1		x 1		
x 2		x x x x		x 2		
x 5		x 5		x 5		
x 10		x 10		x 10		
x 20		x 25		x 20		
x 50		x 50		x 50		
x 100		x 100		x 100		
COIN		COIN		COIN		
SUB-TOTAL		SUB-TOTAL		SUB-TOTAL		

CREDIT ACCOUNT OF
MR & MRS. BAHAMAS

SUB-TOTAL	CHEQUES TOTAL	VISA/MASTERCARD	BSD CASH TOTAL	USD CASH TOTAL	KYD CASH TOTAL	NET DEPOSIT TOTAL

⑆01234⑆000⑆ 12345678 51

TD Canada Trust Incoming and Outgoing Wire Transfer Request Form

Incoming Wire Transfer Request:
I would like to receive a wire transfer into my account.

Please provide the sending institution with the following information:

Account Holder's Name: _____
TD Canada Trust Customer's Account Number: *(Provided via a Direct Deposit Form)*
TD Canada Trust Swi9 Code: **TD0MCA11TOR**
Routing #: **02400533**
TD Canada Trust Branch Address:
TD Canada Trust
7517 125th Street
Delta, British Columbia V4C 6P5
Canada
T: 604-291-2500 F: 604-291-2326

AML Myth #5

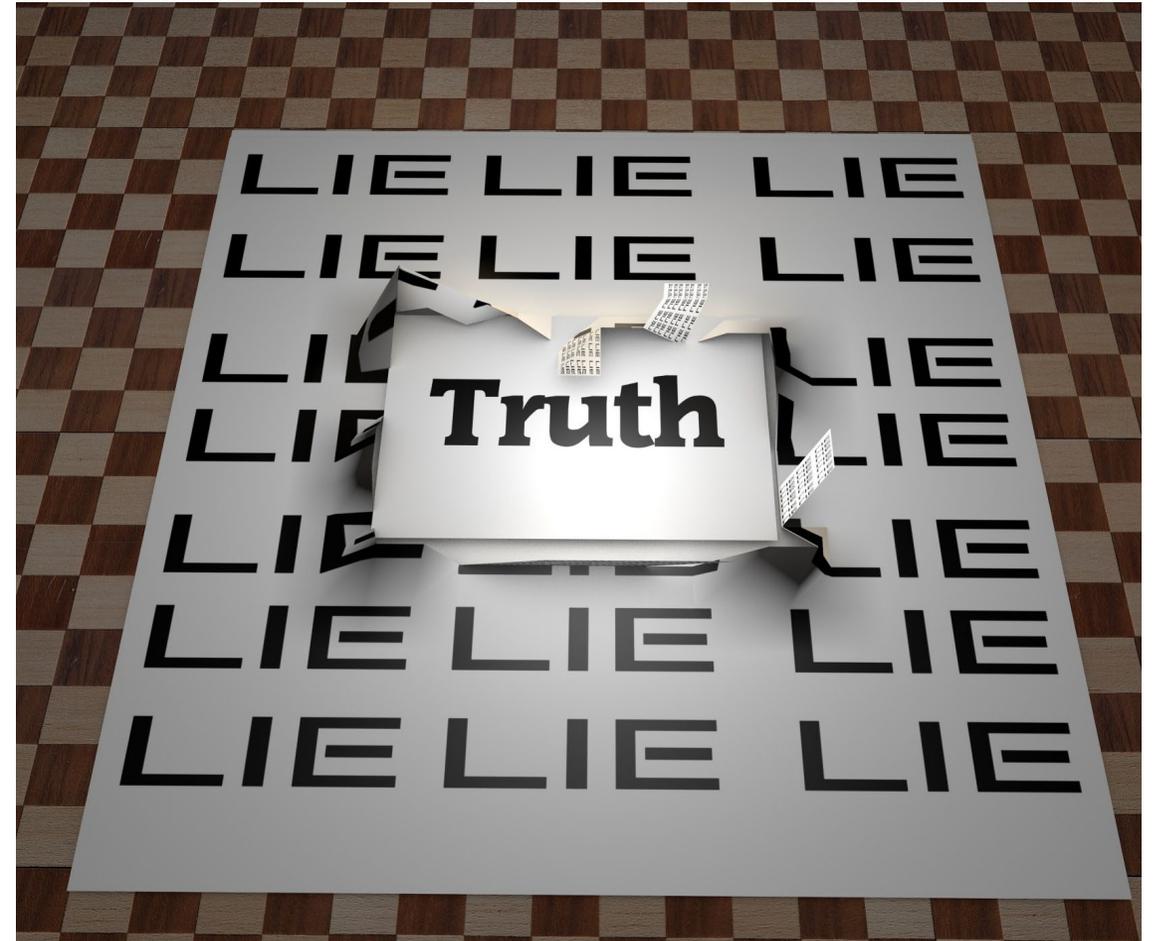
✘ Licensees must comply with the monitoring requirements during and after the retainer is complete.



Get the Facts!

35+ Resources

- AML resources available [here](#)
- Additional resources:
 - [Cash and Money Laundering](#)
 - [Red Flags for Fraud in Real Estate Transactions](#)



So, what is required?



Know Your Client (KYC) Requirement

Licensees have always had KYC obligations

- Must make reasonable efforts to obtain information about the client to ascertain the purpose and objectives of the retainer

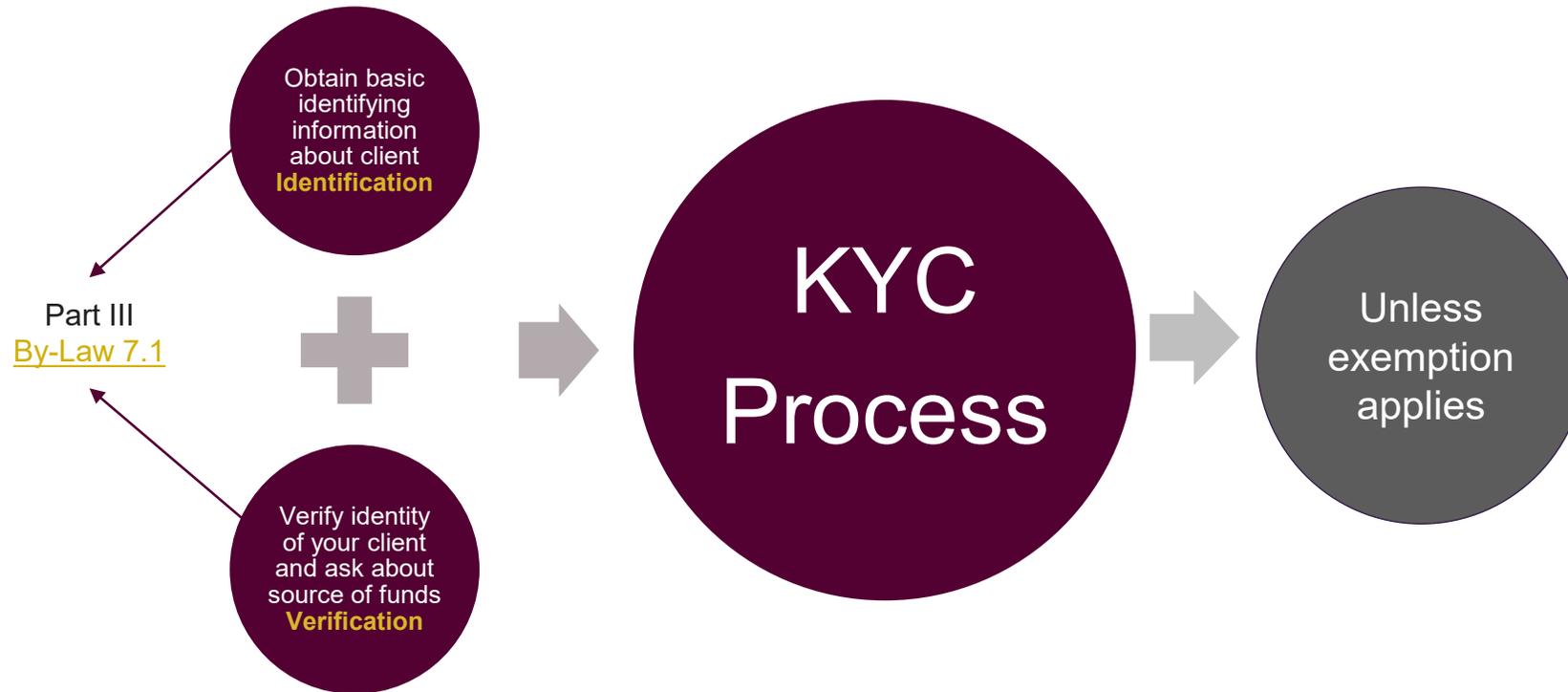
WHY? To assess risk of facilitating fraud

Shall not knowingly assist in or encourage any dishonesty, fraud, crime or illegal conduct or do or omit to do anything that would assist, encourage or facilitate same.

See: [Lawyers](#): rr. 3.2-7 to 3.2-7.2; [Paralegals](#): r. 3.02(4) and (5)

KYC Process

- What information do you need to obtain from the client to comply with your KYC obligations?



What steps do I take?

It depends on:

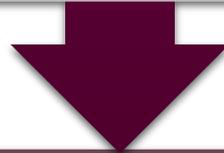
- Who your client is
- Whether the retainer requires you to move **funds** or give instructions to do so
- Whether there are any red flags or inconsistencies



Identification Requirement

(ALL clients – limited exceptions)

Obtain **basic identifying** information (e.g., full name, business and home address and phone number, etc.)



Verification Requirement

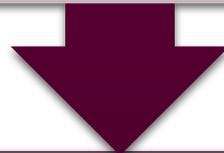
(ONLY certain matters)

Verify identity of client

Ask questions about
source of funds

If matter is ongoing, periodically
monitor for risks of fraud

Confirm documents relied on are
authentic, valid, current and other
information used is **valid** and **current**



Recordkeeping Requirement

(ALL clients – limited exceptions)

Record all identification and verification information, source of funds inquiries, and how you complied with monitoring requirement (if applicable)

BUT...you may need to do more

Clients

- cold contact
- no online presence
- previous requests for services refused
- evasive or secretive
- unable to meet in-person
- difficult to identify organizational structure
- changes instructions without reason, last minute

 **For more red flags,** check out the Law Society's [Red Flags Worksheet](#)

Transaction

- unusual structure or back-to-back transactions
- large discrepancy between price and actual value
- urgency or abandoned last minute
- litigation settles too quickly

Source of Funds

- Amount of transaction not proportional to client's income
- High value transaction with no financing
- Funds from high-risk country

If it doesn't add up...



- **Ask questions**
- **Still not satisfied?** Ask more questions and confirm information.
- **Still seems off?** Contact:
 - Your liability insurer
 - [Practice Management Helpline](#)

More of Your Questions Answered

Source of Funds: Scenario

Real estate lawyer retained by married couple in a new home purchase transaction.

Receives money retainer of \$1,000 by Interac e-transfer from the couple's joint bank account.

Purchase agreement terms and financing are approved; closing in 2 days.

Pursuant to agreement, client sends wire transfer from savings account to your trust account for \$100,000.

Most Asked Questions:

What steps must licensees take to comply with the source of funds requirement?

How far must licensees investigate the source of the funds received, paid, or transferred?

What if...

1. Client tells you the \$100,000 came from their pooled employment savings?
2. The \$100,000 came from a third party by Interac e-transfer (e.g., a gift from one of the client's parents)?
3. If the clients provided \$200,000 upfront in cash as a money retainer to cover the cost of your legal fees and the deposit?



4 Ways to Protect Yourself

1. Review and use our 35+ [Law Society resources](#)
2. Subscribe to LawPRO's [Avoid A claim blog](#) and review the [Fraud Fact Sheets](#)
3. Visit ACGO's [website](#) for tips on checking photo identification
4. Verifying virtually? Authentication technology remains the best practice and best defense:
 - How much does it cost? It depends (\$25 and up)
 - How does it work? See: [Payments Canada](#)
 - What products are available? See: [DIACC Directory](#)

Want more tips? Check out the infographic in the program materials



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Still have questions?

- ✓ Check out [FAQs](#)
- ✓ Contact the [Practice Management Helpline](#)
- ✓ Watch for upcoming [CPD Program](#)



Thank You

