

**To:** 'Anthony Gonsalves [REDACTED]  
**Cc:** Barbara Buchanan, QC [REDACTED] Jeanette McPhee [REDACTED]  
**From:** Jeanette McPhee/[O=THE LAW SOCIETY OF BC/OU=LSBC/CN=RECIPIENTS/CN=JMCPHEE]  
**Sent:** Tue 3/26/2019 9:47:38 PM (UTC)  
**Subject:** RE: CIV rules

Thanks Anthony and Chioma,

All good thoughts from both of you, and I agree that fake id's are possible so not foolproof, and the guidance should be read by a lawyer to identify red flags and understand their client and the transaction.

So even though we aren't keen on the three methods, we may have to agree with them.

But we would prefer that the person to physically be there. If someone has to actually sit in front of a lawyer or their agent and look them in the eye, this is much stronger deterrent than being able to email the information and not be present. Not sure how much the physical presence has been a problem since the CIV was implemented, but perhaps we are not aware of.

As we investigate and try to enforce our rules, the guidance helps, but if it isn't in the rule, it is not effective.

Another point, is that we have similar comments about the 'source of funds'. The rule says "obtain from the client and record...the source of funds", but nothing else specific in the rules. There is guidance but this is not enforceable. We would like more in the rules to make sure that lawyers understand what they should be doing on source of funds, otherwise it all relies on lawyer paying attention to the guidance and understanding the risks. At this point, they will record cheque or bank draft, which is not helpful or what is needed, but it can't be enforced.

All the more reason to have very good educational materials for lawyers, and consider mandatory training for all lawyers re: AML.

I have copied Barb Buchanan on your comments, as she is involved in the Federation Education subgroup and also the implementation of the BC rules so will be interested in your views.

Thanks for your thoughts,

Jeanette McPhee, CPA, CA, BBA, CAMS, CRMS  
Chief Financial Officer and Director of Trust Regulation  
The Law Society of British Columbia  
[REDACTED]

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**From:** Anthony Gonsalves [REDACTED]  
**Sent:** Tuesday, March 26, 2019 2:20 PM  
**To:** Jeanette McPhee [REDACTED] Chioma.Ufodike [REDACTED]  
**Subject:** RE: CIV rules

Hi there,

In looking at the FINTRAC guidance page on this issue (which I find very helpful <http://www.fintrac-canafe.gc.ca/guidance-directives/client-clientele/Guide11/11-eng.asp>), I agree that in isolation, the dual process method seems a bit light. All the verifying entity has to do is to obtain original documents that set out the details – they must"... **view the original, valid and current document. Original documents do not include those that have been photocopied, faxed or digitally scanned. If you refer to information (received from the independent source), it must be valid and current. Information found through social media is not acceptable.**"

Realistically, a fraudster could (and often do) steal mail/original documents for the purpose of identity theft that would satisfy the dual process method. However, they can also manufacture photo id to satisfy the single process method. These are the bare minimum requirements, and I agree with Jeanette that the dual process method would be a more easy way to facilitate fraud through identity theft/impersonation.

I guess the issue is that what if it is impractical to meet face to face with a client and they do not have photo id? There is no requirement that one has to have photo id, although it is unlikely if they live in or near an urban centre.

The way I see it, is that verifying the client ID is but one of the steps in the process of evaluating the legitimacy and reasonableness of the transaction in connection with the legal service. They have to be on guard and identify any potential red flags.

If a client wishing to do a real estate deal does not have adequate photo id, cannot come into the office and can only be verified using the dual process method, and wants everything done in a hurry, my “spidey senses” would be tingling. If I were a lawyer, I would probably scrutinize the transaction much more closely and likely not act.

I guess what I am saying is that we have to remind practitioners that

1. these rules are only the minimum requirements
2. they have a much larger duty to prevent facilitation of fraud/illegal conduct (other rules)
3. must make traceable/documented steps to verify their efforts to know clients and substantiate the reasonableness of the transaction.

On the side, I asked Jim about the status of our rule amendments at the LSO as he will likely have a better idea.

All the best.

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**From:** [REDACTED]  
**Sent:** March 26, 2019 2:09 PM  
**To:** [REDACTED] Anthony Gonsalves [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: CIV rules

Our view is that to verify your client is who they say they are, the lawyer or their agent, should meet the client in person and validate their ID.

For the dual process method, this seems less reliable and are concerned about identity fraud. How do you know that these documents are the person sending them? This method says you need an original that is valid and current, but then you can accept by email, or effectively a copy, so the lawyer won't be getting originals either way. I saw your email, if the credit file is that difficult, it likely won't be used.

Jeanette McPhee, CPA, CA, BBA, CAMS, CRMS  
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[REDACTED]

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**From:** Chioma Ufodike [REDACTED]  
**Sent:** Tuesday, March 26, 2019 10:45 AM  
**To:** Jeanette McPhee [REDACTED]; [REDACTED]  
**Subject:** RE: CIV rules

Hello Jeannette,

Let's discuss this at the next meeting. I just sent a summary of how the credit file method will be used for identification purposes.

For the credit file and dual process method the lawyer does not have to meet the client face to face and I think I am okay with that because of the search criteria that is involved – in my opinion much more reliable than the photo ID method.

We have to ensure that our Rules are drafted for the 21<sup>st</sup> century while minimizing risks.

If I am sitting across from you and email you an electronic utility statement or mortgage statement how is that different from emailing you the same documents if I am at home or work? You are not comparing the documents to my physical identity – you are just ensuring that the

- documents or information from a reliable source that contain the individual's name and date of birth;
- documents or information from a reliable source that contain the individual's name and address; or
- documents or information that contain the individual's name and confirms that they have a deposit, credit card or other loan account with a financial entity.

Perhaps I am missing something but that's my two cents 😊

We can discuss more during the meeting

Chioma

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**From:** [REDACTED]

**Sent:** March 26, 2019 10:30 AM

**To:** [REDACTED] Chioma Ufodike [REDACTED]

**Cc:** [REDACTED]

**Subject:** CIV rules

Hi Anthony and Chioma,

We were just re-drafting our rules based on the model rules, and noticed that the CIV rules do not require a lawyer or their agent to meet their client in person when verifying their ID, for method 2 (credit file) or method 3 (dual source). I don't recall this point in particular being discussed at the working group level, and until we adjusted our rules, this didn't register with us.

This follows the Federal regulations, but seems to be weakening the rules, not strengthening them. I have asked Jim to add this to our CIV subgroup agenda to discuss further. We are deferring the implementation of the CIV rules for now, pending discussion. We would like any lawyer or agent to meet their client in person when obtaining and verifying their client.

What are your thoughts on this? When is LSO and LSA implementing the new rules?

Jeanette McPhee, CPA, CA, BBA, CAMS, CRMS  
Chief Financial Officer and Director of Trust Regulation  
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[REDACTED]

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