

# Part XV – Cash Transactions and Record Keeping Requirements

## Special definitions

15.01 In this Part, unless the context otherwise requires:

“cash” means coins referred to in section 7 of the *Currency Act*, notes issued by the Bank of Canada pursuant to the *Bank of Canada Act* that are intended for circulation in Canada and coins or bank notes of countries other than Canada.

“disbursements” means amounts paid or required to be paid to a third party by the member or the member’s firm on a client’s behalf in connection with the provision of legal services to the client by the member or the member’s firm which will be reimbursed by the client.

“expenses” means costs incurred by a member or law firm in connection with the provision of legal services to a client which will be reimbursed by the client including such items as photocopying, travel, courier/postage, and paralegal costs.

“financial institution” means

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

(b) an authorized foreign bank within the meaning of section 2 of the *Bank Act* 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 or territorial Act,

(d) an association that is regulated by the *Cooperative Credit Associations Act* (Canada),

(e) a financial services cooperative,

(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 that regulated by a provincial or territorial Act,

(i) a department or an entity that is an agent of Her Majesty in right of Canada or of a province or territory 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.

“financial services cooperative” means 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.

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

“legal services” means the practice of law as defined in s. 2(2) of the *Law Society Act, 1999*.

“money” includes cash, cheques, drafts, credit card sales slips, post office orders and express and bank money orders.

“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 member or the member’s firm.

“public body” means,

(a) a department or agent of Her Majesty in right of Canada or of a province or territory;

(b) an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body or an agent of any of them;

(c) an organization that operates a public hospital and that is designated by the Minister of National Revenue as a hospital under the *Excise Tax Act* (Canada) or agent of the organization.

(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 the law of an Act of a province or territory of Canada for a public purpose, or

(f) subsidiary of a public body whose financial statements are consolidated with those of the public body.

## Cash transactions

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

(2) For the purposes of this rule, when a member receives or accepts from a person cash in a foreign currency the member shall 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 member receives or accepts the cash; or

(b) if the day on which the member receives or accepts cash is a holiday, the official conversion rate of the Bank of Canada in effect on the most recent business day preceding the day on which the member receives or accepts the cash.

(3) Rule 15.02(1) applies when a member 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; and

(c) transferring funds by any means.

(4) Notwithstanding rule 15.02(3), rule 15.02(1) does not apply when the member receives cash in connection with the provision of legal services by the member or the member's firm:

(a) from a financial institution or public body;

(b) from a peace officer, law enforcement agency or other agent of the Crown (acting in his or her 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.

## Record keeping requirements

15.03 (1) Every member, in addition to existing financial records requirements to record all money and other property received and disbursed in connection with the member's practice, shall maintain

(a) a book of original entry identifying the method by which money is received in trust for a client, and

(b) a book of original entry showing the method by which money, other than money received in trust for a client, is received.

(2) Every member who receives cash for a client shall maintain, in addition to existing financial records requirements, a 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 for whom cash is received, any file number in respect of which cash is received and containing the signature authorized by the member who receives cash and of the person from whom cash is received.

(3) The financial records described in rule 15.03(1) and (2) may be entered and posted by hand or by mechanical or electronic means, but if the records are entered and posted by hand, they shall be entered and posted in ink.

(4) The financial records described in rule 15.03(1) and (2) shall be entered and posted so as to be current at all times.

(5) A member shall keep the financial records described in rule 15.03(1) and (2) for at least the six-year period immediately preceding the member's most recent fiscal year end.

(6) Every member shall report in the Member's Annual Report, Form 5.07A, on whether the member received cash in an aggregate amount greater than \$7,500 in respect of any one client matter during the course of the reporting period, and indicate the exception under rule 15.02(4) permitting the member to accept such cash.

(7) Any deliberate or careless breach of this rule will be treated as conduct deserving of sanction.

(Adopted: Part XV, Fall Term Convocation, September 26, 2005)