**Schedule B**

**Amendments to LSN Rules re Anti Money Laundering**

1. **The *Rules of the Law Society of Nunavut* are amended as set out in this Schedule.**
2. **Section 80 is amended:**
3. **by adding the following definitions alphabetically:**

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

“ disbursements” means amounts paid or required to be paid to a third party by a 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 the member’s 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 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;

“lawyer” means, in the Province of Québec, an advocate or a notary and, in any other province or territory, a barrister or solicitor;

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

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

1. **by repealing the definitions of “financial institution”, “funds”, “public body”, “reporting issuer” and “securities dealer” and substituting the following in alphabetical order:**

“financial institution” means:

1. a bank that is regulated by the *Bank Act*;
2. an authorized foreign bank within the meaning of section 2 of the *Bank Act* in respect of its business in Canada;
3. a cooperative credit society, savings and credit union or caisse populaire that is regulated by a provincial or territorial Act;
4. an association that is regulated by the *Cooperative Credit Associations Act*

(Canada);

1. a financial services cooperative;
2. a credit union central;
3. a company that is regulated by the *Trust and Loan Companies Act* (Canada);
4. a trust company or loan company that is regulated by a provincial or territorial Act;
5. a department or an entity that is an agent of Her Majesty in right of Canada or of the government of a province or territory when it accepts deposit liabilities in the course of providing financial services to the public; or
6. a subsidiary of the financial institution whose financial statements are consolidated with those of the financial institution;

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

“public body” means:

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

(b) a municipality in Nunavut or an agent of a municipality in Nunavut;

(c) 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;

(d) a local board of a municipality incorporated by or under an Act of a province or territory of Canada, including any board or commission established by a council pursuant to section 31.1 of the *Cities, Towns and Villages Act* or section 31.1 of the *Hamlets Act*, or a similar body incorporated under the law of another province or territory;

(e) 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;

(f) a body incorporated by or under an Act of a province or territory of Canada for a public purpose; or

(g) a subsidiary of a public body whose financial statements are consolidated with those of the public body;

“ reporting issuer” means an organization that is a reporting issuer within the meaning of the securities laws of any province or territory 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 and entities authorized under provincial or territorial 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.

1. **Section 80.1 to 80.10 are repealed and the following substituted:**

**Cash transactions**

80.1(1) A member shall 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 section, when a member receives or accepts cash in a foreign currency the member is 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) Subsection (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:

1. receiving or paying funds;
2. purchasing or selling securities, real properties or business assets or entities;

(c) transferring funds by any means.

(4) Despite subsection (3), subsection (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:

1. from a financial institution or public body;
2. from a peace officer, law enforcement agency or other agent of the Crown acting in his or her official capacity;
3. 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.

**Responsibility to identify client**

80.2(1) A member's responsibilities under sections 80.1 to 80.9 may be fulfilled by any member, associate or employee of the member’s firm, wherever located.

(2) Sections 80.3 to 80.9 do not apply to:

1. a member who provides legal services or engages in or gives instructions in respect of any of the activities described in section 80.4 on behalf of his or her employer;

(b) a member:

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

(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 sections 80.3 to 80.9; or

(c) a member 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 information to be recorded**

80.3. A member who is retained by a client to provide legal services shall obtain and record, with the applicable date, the following information:

1. for individuals:
2. the client’s full name;
3. the client’s home address and home telephone number;
4. the client’s occupation or occupations; and
5. the address and telephone number of the client’s place of work or employment, where applicable;

(b) for organizations:

(i) the client’s 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 member with respect to the matter for which the member is retained;

(c) if the client is acting for or representing a third party, information about the third party as set out in clause (a) or (b) as applicable.

**When requirement to verify client identity applies**

80.4 Section 80.6 applies where a member 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.

**When requirement to verify client identity does not apply**

80.5 Sections 80.6 to 80.64 do 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 company that is not a private company, or a subsidiary of a public body or a reporting issuer;

(ii) received by a member from the trust account of another lawyer;

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

(iv) paid or received to pay a court order or to pay a fine or penalty; or

(v) paid or received for professional fees, disbursements, or expenses; or

(c) to an electronic funds transfer.

**Requirement to verify client identity**

80.6(1) When a member is engaged in or gives instructions in respect of any of the activities described in section 80.4, the member shall:

1. obtain from the client and record, with the applicable date, information about the source of funds described in section 80.4; and

(b) verify the identity of the client, including the individuals described in subparagraph 80.3(b)(iv), and, where appropriate, the third party, using the documents or information described in section 80.61.

(2) A member may rely on an agent to obtain the information described in subsection (1) to verify the identity of an individual client, third party, or individual described in subparagraph 80.3(b)(iv), provided the member and the agent have an agreement or arrangement in writing for this purpose and the member has complied with subsection (4).

(3) Notwithstanding subsection (2), where an individual client, third party or individual described in subparagraph 80.3(b)(iv) is not physically present in Canada, a member must rely on an agent to obtain the information described in subsection (1) to verify the person’s identity, provided the member and the agent have an agreement or arrangement in writing for this purpose and the member has complied with subsection (4).

(4) A member who enters into an agreement or arrangement referred to in subsection (2) or (3) shall:

1. obtain from the agent the information obtained by the agent under that agreement or arrangement; and

(b) be satisfied that the information is valid and current and that the agent verified identity in accordance with section 80.61.

(5) A member may rely on the agent’s previous verification of an individual client, third party or an individual described in subparagraph 80.3(b)(iv) if the agent was, at the time of verifying the identity:

1. acting in the agent’s own capacity, whether or not required to verify identity under this section; 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 these rules, for the purpose of verifying identity under section 80.61.

**Documents and information for verification**

80.61 For the purposes of paragraph 80.6(1)(b), a member shall verify a client’s identity 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:

1. 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 or territorial 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; or

(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 of 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;

1. for the purposes of subparagraph (a)(iii), the information referred to must be from different sources, and the individual, member and agent cannot be a source;
2. to verify the identity of an individual who is under 12 years of age, the member shall verify the identity of one of the individual’s parents or a guardian;
3. to verify the identity of an individual who is a least 12 years of age but not more than 15 years of age, the member may refer to information under clause (a)(iii)(A) that contains the name and address of one of the individual’s parents or a guardian and verifying that the address is that of the individual;

(e) if the client or third party is an organization such as a corporation or society 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

(f) if the client or third party is an organization, other than a corporation or society, that is not registered in any government registry, such as a trust or partnership, 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.

**Requirement to identify directors, shareholders and owners**

80.62(1) When a member is engaged in or gives instructions in respect of any of the activities in section 80.4 for a client or third party that is an organization referred to in paragraph 80.61(e) or (f), the member shall obtain and record, with the applicable date:

1. the names of all directors of the organization, other than an organization that is a securities dealer;
2. 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;
3. the names and addresses of all trustees and all known beneficiaries and settlors of the trust; and
4. (d) in all cases, information establishing the ownership, control and structure of the organization.

(2) A member shall take reasonable measures to confirm the accuracy of the information obtained under subsection (1).

(3) A member shall keep a record, with the applicable dates, that sets out the information obtained pursuant to subsection (1), and the measures taken to confirm the accuracy of that information pursuant to subsection (2).

(4) If a member is not able to obtain the information referred to in subsection (1) or to confirm the accuracy of that information in accordance with subsection (2), the member shall:

1. take reasonable measures to ascertain the identity of the most senior managing officer of the organization; and
2. treat the activities in respect of that organization as requiring ongoing monitoring and, if necessary, take the steps such monitoring may require, as described in section 80.9.

**Timing of verification for individuals**

80.63(1) upon engaging in or giving instructions in respect of any of the activities described in section 80.4, a member shall verify the identity of:

1. a client who is an individual; and
2. the individual authorized to provide and giving instructions on behalf of an organization with respect to the matter for which the member is retained.

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

**Timing of verification for organizations**

80.64(1) A member shall 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 section 80.4, but in any event no later than 30 days thereafter.

(2) Where the member has verified the identity of a client that is an organization and obtained information pursuant to subsection 80.62(1), the member is not required to subsequently verify that identity or obtain that information, unless the member has reason to believe the information, or the accuracy of it, has changed.

**Records to be kept**

80.7(1) A member shall obtain and retain a copy of every document used to verify the identity of any individual or organization for the purposes of subsection 80.6(1).

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

(3) A member shall retain a record of the information, with the applicable date, and any documents obtained for the purposes of sections 80.3, 80.62(1) and 80.9(2) and copies of all documents received for the purposes of section 80.6(1) for the longer of:

1. the duration of the client relationship and for as long as is necessary for the purpose of providing service to the client; and
2. A period of a least six years following completion of the work for which the member was retained.

**Application of rules to all matters**

80.8 Sections 80.2 to 80.7 do not apply to matters in respect of which a member was retained before those sections came into force but do apply to all matters for which the member is retained after that time, whether or not the client is a new or existing client.

**Monitoring**

80.9 During a retainer with a client in which the member is engaged in or gives instructions in respect of any of the activities described in section 80.4, the member shall:

(a) monitor on a periodic basis the professional business relationship with the client for the purposes of:

(i) determining 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 section 80.4; and

(iii) 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 these rules; and

(ii) assessing whether there is a risk that the lawyer may be assisting in or encouraging dishonesty, fraud, crime or illegal conduct; and

(b) keep a record, with the applicable date, of the measures taken and the information obtained with respect to the requirements of paragraph (a)”.

1. **The following section is added after section 81.6:**

**Financial record re cash transactions**

81.61(1) Every member shall maintain, in addition to existing financial recordkeeping requirements to record all money and other property received and disbursed in connection with the member’s practice:

* 1. a book of original entry identifying the method by which money is received in trust for a client; and
	2. 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 recordkeeping 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 subsections (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 subsections (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 subsections (1) and (2) for at least the six-year period immediately preceding the member’s most recent fiscal year end.