

CLIENT ACCOUNT REGULATION



icccrc
IMMIGRATION CONSULTANTS OF
CANADA REGULATORY COUNCIL
crcic
CONSEIL DE RÉGLEMENTATION DES
CONSULTANTS EN IMMIGRATION DU CANADA

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1. AUTHORITY

1.1 This Regulation is enacted pursuant to section 3.1 of the By-law.

2. DEFINITIONS

2.1 In this Regulation, capitalized terms, unless otherwise defined herein, have the same meaning as they do in the By-law.

2.2 In this Regulation:

- (a) “**Authorized Representative**” means an individual who can offer immigration/citizenship advice and/or service for a fee or other consideration. An Authorized Representative includes a member In Good Standing with a Canadian provincial or territorial law society (including paralegals within their authorized scope of practice) or with the Chambre des notaires du Québec, or an RCIC [*représentant autorisé*];
- (b) “**Client**” means a person or Entity whose interests the Licensee undertakes to represent, for a fee or other consideration, or *pro bono*, regarding a proceeding or application, or potential proceeding or application, under the *Immigration and Refugee Protection Act* (IRPA) or the *Citizenship Act* [*client*];
- (c) “**Client Account**” means a savings or chequing account opened by a Licensee at a Financial Institution in which account the Licensee holds funds received from or on behalf of one or more Clients and which is designated in the Licensee’s records as a Client Account [*compte client*];
- (d) “**Disbursements**” means miscellaneous expenses incurred by a Licensee in the course of providing services to a Client, including government processing fees, and for which such Client may reimburse the Licensee and, for purposes of clarity, excludes fees for services rendered by a Licensee [*débours*];
- (e) “**Entity**” means a company, business, corporation, partnership, institution, or any other Organization that has a separately identifiable existence and which is distinguished from individuals [*entité*];
- (f) “**Financial Institution**” means a:
 - i. Canadian chartered bank;
 - ii. Canadian loan or trust company;
 - iii. Canadian provincial savings office;
 - iv. Canadian credit union or league regulated under Canadian or provincial/territorial statute;
 - v. Canadian registered trust corporation; or
 - vi. government-regulated and registered financial institution, as approved by the Registrar, in a foreign country for which there is no Canadian banking presence at a reasonable distance or access to the Licensee’s practice [*institution financière*];

- (g) “**Group of Licensees**” means:
- i. a partnership of Licensees and all Licensees employed by that partnership;
 - ii. a Licensee who is a shareholder of a corporation or a group of Licensees who are all shareholders of the same corporation, and all Licensees employed by that corporation; or
 - iii. a Licensee and all Licensees employed by that Licensee [*groupe de titulaires de permis*];
- (h) “**Immigration Agency**” means an Entity that is not owned by an Authorized Representative or a group of Authorized Representatives [*agence d’immigration*];
- (i) “**Jurisdiction**” means the authority to enforce rules over specific groups of individuals or within specific geographies [*territoire de compétence*];
- (j) “**Licensee**” means an RCIC [*titulaire de permis*];
- (k) “**Money**” includes current coin, government or bank notes, cheques, drafts, credit card sales slips, post office orders and express and bank money orders [*argent*].

3. REQUIREMENT TO MAINTAIN

- 3.1 Every Licensee shall maintain an account designated as a Client Account in the name of the Licensee, in the name of the Entity under which the Licensee conducts business, or in the name of the Firm under which the Licensee conducts business, or in the name of the Firm of which the Licensee is a partner, or in the name of the partners of the Firm in which the Licensee is a partner, unless specified otherwise in this Regulation.
- 3.2 Prior to opening a Client Account, a Licensee is not permitted to receive from a Client any Money to be held on behalf of a Client for:
- (a) future unbilled services;
 - (b) overpayment of billed services;
 - (c) government processing fees; or
 - (d) any other type of Disbursements.
- 3.3 A Licensee agreeing not to hold Money on behalf of a Client at any time may be exempted from opening and/or maintaining a Client Account by submitting to Council an annual declaration, in the prescribed form, attesting to such fact.
- 3.4 Should the Licensee, however, choose to hold Money on behalf of a Client after signing such declaration, the Licensee shall have a Client Account pursuant to section 3.1 of this Regulation, prior to receiving Money to be held on behalf of a Client.

4. USE OF CLIENT ACCOUNTS

4.1 Deposits in Client Accounts

- (a) A Licensee who receives Money to be held on behalf of a Client for future unbilled services, for overpayment of billed services, for all government processing fees, and for all other Disbursements shall promptly and in no event later than fourteen (14) calendar days following receipt, deposit it into an account that is:
- i. designated as a Client Account;
 - ii. kept in the name of the Licensee; and
 - iii. kept at a Financial Institution.
- (b) Notwithstanding section 4.1(a) of this Regulation, Client Money received by means of an electronic funds transfer is deemed to be deposited when the Licensee is informed of the deposit by the Financial Institution.
- (c) A Licensee shall not hold or deposit Client funds which are not immigration- or citizenship-related.

4.2 Money to be Deposited into a Client Account

- (a) A Licensee is required to deposit funds into a Client Account whenever they receive Money to be held on behalf of a Client for future unbilled services, for overpayment of billed services, for all government processing fees, and for all other Disbursements. These requirements apply to both models available to the Licensee as explained below.
- (b) The Council recognizes two distinct approaches to Client Accounts: Model 1 and Model 2, which are differentiated as follows:
- i. Model 1—All Monies received from Clients shall be deposited into the Client Account.
 - ii. Model 2—A Licensee shall deposit all unearned and unbilled Monies into the Client Account.
- (c) A Licensee shall choose either Model 1 or 2 and apply it consistently for the entire audit year.

4.3 Licensee Employed by an Immigration Agency

- (a) A Licensee working as an Employee for an Immigration Agency shall deposit Client funds into their Client Account pursuant to section 3.1 of this Regulation.

4.4 One or More Client Accounts

- (a) A Licensee may maintain one or more Client Accounts in one or more currencies but does not need to maintain a separate Client Account for each Client unless a Client specifically requests that a Licensee do so.

4.5 Reporting to the Council

- (a) A Licensee shall provide written notice to the Council by e-mailing info@college-ic.ca of each Client Account maintained by the Licensee promptly and in no event later than fifteen (15) calendar days of opening or closing a Client Account, which notice shall set out the date that the Client Account was opened or closed, the name and address of the Financial Institution at which the Client Account is opened and the account number of the Client Account.

5. **PROHIBITION ON USE OF CLIENT ACCOUNT**

5.1 Money not to be Deposited into Client Account

- (a) A Licensee shall not deposit into a Client Account Money that belongs entirely to the Licensee or to a Group of Licensees of which the Licensee is a part, other than Money referred to in section 4.1(a) or (b) of this Regulation, except a reasonable amount to cover administrative fees (e.g., bank fees, credit card fees, etc.).
- (b) A Licensee shall not hold Client money for the benefit of a third party except for money to pay the Licensee's fees, including Agent's fees, application fees, and disbursements. For greater clarity, the prohibition on holding Client money applies to money the Client needs to be eligible for any program under IRPA or the *Citizenship Act*.

5.2 No Liens or Security Interests

- (a) A Licensee may not grant a lien on or security interest in any Client Account under any circumstances, other than those arising by operation of law.

6. **WITHDRAWAL OF MONEY FROM CLIENT ACCOUNT**

6.1 Withdrawal from Client Account

- (a) A Licensee may withdraw Money from a Client Account for the following reasons:
- i. Money properly required for payment of a Disbursement for which a Licensee has received, in writing from the Client, permission regarding the payment of the Money;
 - ii. Money required to reimburse the Licensee for Disbursements incurred on behalf of a Client for which the Licensee has issued an invoice to the Client. For Model 2, this is the rule to be allowed to deposit funds directly to the Licensee's account used for business purposes;
 - iii. Money required for or toward payment of fees for services rendered by the Licensee for which the Licensee has issued an invoice to the Client. For Model 2, this is the rule to be allowed to deposit funds directly to the Licensee's account used for business purposes;
 - iv. Money that is directly transferred at the written direction of a Client into the Client Account of another Licensee, the trust account of a Lawyer or the trust account of a Québec Notary;
 - v. Money that was deposited into a Client Account which, under this Regulation, the By-law, the Code of Professional Conduct or any other rule or policy of the Council in effect from time to time, should not have been deposited into a Client Account; or

vi. Money refunded to a Client.

6.2 Permission to Withdraw Other Money

(a) A Licensee may withdraw from a Client Account Money, other than the Money referred to in section 6.1 of this Regulation, if they have been authorized to do so by the Registrar of the Council in accordance with policies implemented by the Council from time to time.

6.3 Limit on Amount Withdrawn from Client Account

(a) A Licensee shall not at any time withdraw from a Client Account, in connection with a Client, more Money than is held on behalf of such Client in that Client Account at that time.

6.4 Manner in which Money may be Withdrawn from Client Account

(a) A Licensee shall withdraw Money from a Client Account only:

- i. by cheque; or
- ii. for purposes of sections 6.1(a) ii, iii, and v of this Regulation, by an electronic transfer to government or to a bank account that is kept in the name of the Licensee; or
- iii. for purposes of section 6.1(a) iv or 6.2 of this Regulation, by an electronic transfer to a bank account that is kept in the name of another Licensee, a Lawyer or a Québec Notary, or the Client.

6.5 Withdrawal by Cheque

(a) A cheque drawn on a Client Account shall not be:

- i. made payable either to cash or to bearer; or
- ii. signed by a person who is not a Licensee except in exceptional circumstances, as authorized in writing by the Registrar of the Council in accordance with policies implemented by the Council from time to time.

7. INTEREST EARNED ON MONEY IN CLIENT ACCOUNT(S)

7.1 General Client Account(s)

(a) Subject to section 7.2 of this Regulation, any interest earned on Money held in a Client Account shall be credited to the Licensee's account used for business purposes.

7.2 Client-Specific Client Account(s)

(a) Notwithstanding section 7.1 of this Regulation, if a Client requests that a Licensee open a Client Account specifically and solely for such Client, any interest earned on Money held in such Client Account shall be credited to the Client for whom the Client Account was opened.

8. REQUIREMENT TO MAINTAIN SUFFICIENT BALANCE IN CLIENT ACCOUNT

- 8.1 Despite any other provision in this Regulation, a Licensee shall at all times maintain sufficient balances on deposit in their Client Accounts to meet all of their obligations with respect to Money held on behalf of his or her Clients.

9. REQUIREMENT TO RECONCILE CLIENT ACCOUNT(S) MONTHLY**9.1 Reconciliation of Client Account(s)**

- (a) A Licensee shall reconcile each month's balances of all Client Accounts opened in their name promptly and in no event later than ninety (90) calendar days after each month's end.
- (b) Each reconciliation and the supporting documents relating to each reconciliation (including, without limitation, bank statements and a detailed list of Money held for each Client) shall be kept in the office of the Licensee's principal business address for no less than six (6) years.

10. LICENSEE WORKING IN A MULTI-DISCIPLINARY PRACTICE**10.1 Working in Other Jurisdictions**

- (a) A Licensee who works in other Jurisdictions is bound by the client account rules or by-laws of the applicable regulatory body in the Jurisdiction(s) of such practices, where such rules or by-laws are in place, so long as they are not in contravention with the principles of the Council's Client Account Regulation, unless an exemption is granted by the Registrar of the Council.

10.2 Multi-Disciplinary Personnel

- (a) A Licensee who works as a multi-disciplinary personnel member in practices (whether or not incorporated) other than immigration/citizenship practices is bound by this Regulation unless an exemption is granted by the Registrar of the Council.

11. PENALTY FOR BREACH OF REGULATION**11.1 A Licensee who breaches this Regulation shall be subject to the following penalties:**

- (a) For a first offence, written warning with direction to correct deficiency within thirty (30) calendar days.
- (b) For a second or subsequent offence, \$100 per incident.
- (c) Failure to correct deficiencies within thirty (30) calendar days or pay fines is subject to suspension and ultimately revocation.