**SAMPLE MONITORING RECORD**

When you are retained by an individual or an organization to engage in, or give instructions in respect of the receipt, payment, or transfer of funds (a “financial transaction”) and the matter is ongoing, you must monitor that professional business relationship on a periodic basis to determine whether your client’s instructions, the information you have obtained about your client’s activities, and the source of funds used in the transaction are consistent with the purpose of the retainer and the information you obtained about the client during the identification and verification process. You are also required to keep a dated record of your client monitoring measures, including the steps taken and the information obtained. **The requirement to monitor the professional relationship applies to all clients where there is a financial transaction, including long-standing clients, and continues until the retainer is complete.**

To use this Record to comply with your monitoring obligations, you should:

* review the information you obtained about the client, the client’s activities, and the source of funds during the identification and verification process,
* consider reviewing the Law Society’s Frequently Asked Questions about Monitoring, [Worksheet: Red Flags of Fraud, Money Laundering, Terrorist Financing, and Other Illegal Activity](https://lawsocietyontario.azureedge.net/media/lso/media/lawyers/practice-supports-resources/red-flags-worksheet-en.pdf) (“Red Flags Worksheet”), and Risk Assessment Case Studies, and LawPRO®’s [Avoid a Claim, Fraud Warnings](https://avoidaclaim.com/fraud-warnings/)
* ask the client questions to confirm the currency of information about them, their activities, and the source of funds,
* complete Part I through III of this Record, and use the Notes section at the end of this Record to document any additional information or steps taken, and
* retain a copy of the completed Record in the client’s file in accordance with the record retention requirements set out in in [By-Law 7.1](https://lso.ca/about-lso/legislation-rules/by-laws/by-law-7-1).

Note that if at any point while retained, including while obtaining the required information to comply with your monitoring obligations, you know or ought to know that you are or would be assisting the client in fraud or other illegal conduct, you must immediately cease to and not engage further in any activities that would assist the client in fraud or other illegal conduct and/or withdraw from representation of the client

**Licensees with questions about their monitoring obligations or how to comply with the requirements should contact the** [**Practice Management Helpline**](https://lso.ca/lawyers/practice-supports-and-resources/practice-management-helpline)**.**

|  |  |
| --- | --- |
| Client No./Matter No.: |  |
| Client/Third Party Name: |  |
| Matter Description: |  |
| Responsible Lawyer/Paralegal: |  |

**PART I: CLIENT INFORMATION AND INSTRUCTIONS**

|  |  |  |
| --- | --- | --- |
|  | Yes | No |
| 1. Review your completed Client Identification Form and Client Verification Form. Has there been a change in the information you previously obtained about the client, the client’s activities, or the source of funds for the transaction?
 |[ ] [ ]
| 1. Have the client’s instructions in respect of the retainer or transaction changed?
 |[ ] [ ]
| 1. Has the client altered the scope of the retainer or asked you to provide additional legal services or legal services that differ from your understanding of the purpose of the retainer?
 |[ ] [ ]
| 1. If you answered “Yes” to any of the above questions, is there a reasonable explanation for the changes?

If there is not a reasonable explanation, in your Part II Risk Assessment below, carefully consider whether you must immediately cease taking any steps in the matter and/or withdraw from representation.  |[ ] [ ]
| 1. In the space below, document the information you obtained, identify any changes to previously obtained about the client, the client’s activities, and the source of funds, including any reasonable explanation for these changes, and explain what measures you took to obtain and confirm this information, including identifying any additional documents or data you reviewed.
 |
|  |
| Date(s) information obtained, records reviewed, and other measures taken: |  |
| Name(s) of persons who obtained information and/or took measures: |  |

**PART II: RISK ASSESSMENT**

|  |  |
| --- | --- |
| 1. At the time of verification, what was your overall risk assessment for the matter?
 |  |
| 1. Are there any additional risks that were not present at the time you verified the client’s identity? If yes, explain.
 |  |
| 1. Has your overall risk assessment for this matter changed? If yes, explain.
 |  |
| 1. Do you know or ought you to know that you are or would be assisting the client in fraud or other illegal conduct by continuing representation?
 |
| [ ]  No[ ]  Yes, and I have immediately ceased from engaging in any further activities that would assist the client in such illegal conduct and/or I have withdrawn from representation of the client on this basis on [*insert date*]. |
| Date(s) information obtained, records reviewed, and/or other measures taken: |  |
| Name(s) of persons who obtained information and/or took measures: |  |

**PART III: ONGOING MONITORING**

|  |  |
| --- | --- |
| Based on your responses to Part I and Part II above, has the frequency of monitoring required for this matter changed?  |  |
| How often will you continue to monitor the professional business relationship?  |  |
| Next scheduled monitoring date: |  |
| Name(s) of person who completed ongoing monitoring assessment: |  |
| **NOTES:** |
|  |



 If periodic monitoring reveals heightened risk, ongoing monitoring may include:

* Obtaining updated information about the client (e.g., occupation, assets)
* Collecting more information about the source of funds or the source of wealth of your client
* Asking about the reason for intended or conducted transactions
* Gathering additional documents, data, or information or taking additional steps to verify the documents obtained
* Flagging certain activities that appear to deviate from expectations
* Reviewing client transactions relevant to the legal work for which you are retained against your usual processes and procedures for similar matters

Remain alert to new red flags or risk factors that emerge at any time throughout your retainer. If necessary, engage in more frequent monitoring, record the steps and measures taken, and consider whether continued representation is appropriate in the circumstances.