Law Society of British Columbia

Rule Amendments: Accounting, Client Verification and Related Rules
Follow-up to July 3, 2026 Bencher Meeting

To: Benchers

Purpose: Discussion & Decision

From: Staff

Date: September 25, 2026

Background

1. Amendments to the accounting (and related) Rules, arising from recommendations made by the Trust Review Task Force, were presented to and considered by the Benchers at their July 3, 2026 meeting. A copy of the Drafting Notes to the Benchers explaining the amendments follows this report as Appendix A.

2. Several comments were raised by some of the Benchers regarding the proposed Rules and were discussed at the meeting. It was agreed to review those comments and revise the draft rules to address them, and to return the draft rules first to the Executive Committee for consideration and then to the Benchers for consideration and approval at their September 25, 2026 meeting.

3. In the meantime, the Benchers were asked to identify any other concerns or questions that they had to staff in order that they could be addressed in the revised draft to be considered in September.

4. Staff has considered the comments made at the meeting in July and comments subsequently raised with staff by several Benchers.

5. Staff also reviewed the draft rules in light of the further comments and made some slight amendments to the Rules applied only where necessary accordingly. Explanations regarding the further amendments are set out in this memorandum.

6. A revised draft of the Rules is attached as Appendix B (redlined) and Appendix C (clean) for the Benchers' review, and a resolution is proposed below in Appendix D.

Discussion

Education requirements required as a condition for being a signatory to a trust account

7. The first issue discussed at the July 3 meeting related to Rule 3-67 and the requirement that, prior to being a signatory to a trust account, a lawyer would be required to complete courses prescribed by the Executive Director for that purpose.

8. There was a consensus around the advisability of such a Rule (which in fact implements a previously approved recommendation by the Trust Review Task Force), but there also appeared to be a consensus that simply having taken the course once in one's career was perhaps not enough to ensure the lawyer remained current with accounting requirements.

9. Discussion at the last Bencher meeting centred on suggesting that a lawyer wishing to be a trust account signatory should take the course at least every 5 years.

10. At its meeting on September 10, the Executive Committee revisited that suggestion, and recommended instead that the rule be varied slightly to break away from the idea of a "course" and instead to require that the lawyer have completed "educational requirements" that could be more nuanced or tailored to requirements (including continuing education requirements) that would perhaps better demonstrate the lawyer's competencies in accounting.

11. One of the comments received also noted that the language of Rule 3-67 (2) was problematic for lawyers who would be changing firms, but who are not already signatories on a trust account, or for lawyers who were opening a sole practitioners practice. While the Rules provide a grace period for lawyers who were already signatories to a trust account when the Rule became effective, the suggestion was made that there should also be a grace period to allow lawyers who were about to become signatories to a trust account when the Rule came into effect, so as to allow time for them to take the course.

12. An issue raised at the July Bencher meeting recommended that the Rules should clarify that withdrawal from a trust account by electronic transfer should also be available only where authorized by a lawyer who has completed the educational activity required under Rule 3-67.

13. Amendments have therefore been made to Rule 3-67. To address the discussion on this topic, staff recommends Rule 3-67 read as follows:

    a. the Executive Director be given discretion to prescribe "educational requirements" for the purpose of the Rule,
    b. once that discretion is exercised, to require the Executive Director to designate a date on which such educational activity is to be implemented.
    c. the Executive Director would be required to give the profession six months notice of the date of implementation of the requirements, which will allow lawyers to complete them prior to the date of implementation.
    d. after the six months has elapsed, a lawyer may not be a signatory to a trust account unless the lawyer has completed the educational activity prescribed.
    e. lawyers will be required as well to complete continuing education requirements prescribed by the Executive Director in order to maintain their ability to be a signatory to a trust account or to authorize the withdrawal of funds from a trust account by electronic transfer signatories to trust account.

14. There was also some general discussion at the July meeting as to whether to include Rule 3-67 at all, given that there was, as of yet, no prescribed educational activity for accounting.

15. Staff recommends including the Rule to reflect the recommendations of the Trust Review Task Force that there should be education requirements for lawyers who were signatories to trust accounts. Rule 3-67 implements that recommendation.

16. However, it should be clearly noted that Rule 3-67 has *no* applicability *until the Executive Director has prescribed educational requirements for the purpose of that Rule*. Until that happens, a lawyer may continue to be a signatory to a trust account without having taken any courses. Rule 3-67 therefore simply operates as a placeholder. It lets the profession know that there is a regulatory requirement that will become effective at a future date, when the Executive Director has prescribed educational activity for the purposes of the Rule. The Rules, as revised, make it clear that any lawyer can continue to be a signatory to a trust account until education requirements have been prescribed and a date for their implementation has been set. This, it is anticipated, will alleviate concerns about not knowing what the courses are but knowing they will one day have to be taken.

17. The timing of the Rule having any practical effect will thus depend on when the Executive Director prescribes the education requirements, and that will allow the Law Society time to communicate with the profession about the requirements and even, if desired, seek feedback about the nature of activities and related materials the profession may find helpful.

18. Staff believe that the revisions to the language of Rule 3-67, clearly requiring the Executive Director to prescribe education requirements, to designate an implementation date, and to retain a time frame set out in the Rules to take the education requirements before any prohibition on being a signatory to a trust account becomes effective, should assuage the concerns raised on this point.

Anti-money laundering education

19. One of the comments received identified a concern with Rule 3-28.01, specifically that the Rule should clarify that it does not apply in a manner that results in lawyers who are already in practice to be in violation of the Rule. In reviewing the concern, staff noted that the Rule, as originally drafted, may not have placed *any* requirement on lawyers already in practice to complete the anti-money laundering course.

20. Staff have therefore revised the Rules to address this issue. Again, while the intent of the Rules is to require lawyers to take an anti-money laundering course (which term is defined in the Rules), staff recommend that the Executive Director be given the discretion to designate the

date for implementation of the course. All lawyers in practice must complete the course within 6 months of the date designated by the Executive Director. Lawyers who subsequently commence practice for the first time after the date of designation are given 6 months to complete the course. This will catch lawyers who are newly called to the bar and transfers from another jurisdiction. Since the Task Force's recommendation was that this course should be required of lawyers only once, it will not catch lawyers who are returning to practice after an absence from the profession, provided they have already taken the course.

21. Again, while the Rule would come into force on the date chosen by the Benchers, the Rule has no practical effect until the Executive Director prescribes a course for the purposes of the Rule.

Rule 3-75 (3) - receipts

22. One of the comments received noted that the requirement in Rule 3-75 (3) to obtain and retain a written receipt from the recipient of funds paid via a bank draft was potentially burdensome.

23. The purpose of the receipt requirement is due to the nature of bank drafts, which, unlike cheques, provide no transaction receipt. Ensuring that the correct person has received payment was therefore seen as a precaution against improper use of bank drafts, including by a lawyer or law firm to clear up trust balances.

24. While it is anticipated that bank drafts are much less frequently used than was perhaps the case in prior years, it is still thought to be important to ensure that the draft ends up in the proper hands. However, to address the concern that the receipt requirement may be burdensome in cases where it is difficult to obtain it, subrule (3) (d) has been amended to place on a lawyer the obligation to "use reasonable efforts" to obtain and retain the receipt, and, if unable to do so, to record why obtaining such a receipt was not possible in the circumstances.

Rule 3-74 (5) – trust cheques

25. This Rule, as presented in July, required that trust cheques must be signed only by lawyers who have taken the required courses prescribed in Rule 3-67.

26. Discussion at the July meeting raised concerns that this may be too limiting, as there are firms that have policies that require two signatories, one of whom must be a lawyer, but the other may be someone in the firm who is not a lawyer.

27. To address this, the Rule has been amended by removing "only." This will result in a requirement that a trust cheque must be signed by a lawyer (who has taken the courses

prescribed under Rule 3-67 within the last 5 years), but will allow a second signatory to be someone other than a lawyer.

No cash Rule

28. One of the comments received identified some vagueness in Rule 3-80 (2), given the language of subrules (2) (e) and (4). Staff believes that this can be addressed by revising subrule (2) to clarify that the Rule allows a law firm to accept cash greater than $7,500 despite subrule (1) only if any of subrule (2) (a) – (e) apply.

29. Staff has also clarified the application of all the subrules to lawyers, as well as law firms, who accept cash.

Reference to "partner"

30. A comment was raised noting the references to "partner" in the rules. It was questioned whether, given the rise in the number of firms recognizing "non-equity partners," a distinction between the types of partnership should be made in the rules.

31. Staff has considered this, but concluded that the distinction is not necessary. The Law Society is interested in ownership of a law firm in the amended accounting rules. Partnership is one method of ownership, as defined in the definition of "owner", but it is just one of several forms of ownership. The importance is not in the word used, but in the fact that the person has an ownership interest. If a "non-equity partner" does not have an ownership interest in the firm, then they are not an "owner" for the purposes of the rules. Staff is of the opinion that the Rules ought not to address the distinctions firms might create in their employment structures.

Individual responsibility

32. One of the comments received noted that Rule 3-56 makes individual lawyers responsible for accounting services they render, which would presumably extend to associate lawyers who may have responsibility for an aspect of the file but who do not participate in billing the matter. The question was therefore whether the individual responsibility should be restricted to lawyers who are responsible for billing.

33. After consideration, staff concluded that such a restriction should not be made. The tenor of the current rules is that, while a lawyer may delegate tasks and duties in the area of accounting requirements, the lawyer cannot delegate responsibility.

34. While the law firm, for example, can and should be held responsible for shortcomings, specific individuals should still be held responsible for acts of commission or omission that result in violations of the rules. The relevant consideration ought not to be whether the lawyer involved is responsible for billing the file. Rather, the relevant consideration ought to be whether the lawyer, handling a matter that engages the accounting rules, acted consistently with the rules or not. Even associate lawyers not responsible for billing a file may handle aspects of the file that engage, for example, the handling of trust funds.

Law firms and owners

35. While reviewing the Rules, staff further considered the definition of "owners" of a law firm. "Owners" take on importance in the amended Rules, as it is owners who bear the regulatory consequences of the law firm's accounting and reporting obligations.

36. Most law firms are firms that provide legal services in a private capacity to clients for a fee. These firms regularly have requirements that necessitate the use of trust accounts, be it to deal with retainers or to deal with funds of clients during the course of the legal services provided to them.

37. However, the definition of "law firm" under the *Legal Profession Act* was intentionally broad enough to capture entities such as in-house legal departments or even legal services units of government. These entities often do not handle trust funds and thus have no need for trust accounts.

38. Nevertheless, if they do for any reason, it is important to ensure that they are captured in the Rules. The issue is that such law firms do not have a lawyer or lawyers "who have an ownership interest in the law firm," which is the defining characteristic of the definition of "owner."

39. Staff suggests therefore that the definition be revised so that, where there is no lawyer or lawyers "who have an ownership interest in the law firm," "owner" will mean the lawyer or lawyers who has responibility for the management of the delivery of legal services through the law firm.

40. This will also capture law firms in BC that are branch offices of a law firm in another jurisdiction through which legal services in BC are provided by a lawyer who does not have an ownership interest in the larger firm.

Firms that do not operate trust accounts

41. "Law firm" is broadly defined in the *Legal Profession Act* and would capture in-house law departments and government lawyers. The reporting rules for law firms, when implemented in the early 2020s, recognized this and exempted such entities from registering.

42. Government and in-house "law firms" are unlikely to operate trust accounts. On reviewing the draft rules, staff realized that it was not clear that these entities were exempt from the trust and accounting rules, however. To ensure that, as "law firms," these entities are not required to undertake accounting obligations that have no application to their practices, the rules have been amended to exempt these firms from Part 3, Division 7, provided they do not operate trust accounts.

43. The rules in Part 2 addressing law firms will thus require all "legal entit[ies] or combination of legal entities carrying on the practice of law" (the definition of a law firm) to report immediately to the Executive Director the first time they operate a trust account. That will capture them in Law Society records as "law firms" that are governed by Part 3, Division 7.

44. As a fail-safe, lawyers who practise law through a law firm that does not operate a trust account will have to file an "accounting report" prescribed by the Executive Director that staff envisage will simply be a declaration that they do not operate a trust account.

Disbursements

45. One of the comments received identified an issue arising from the prohibition in Rule 8-0.4 against billing for disbursements or expenses before they have been incurred. There will be circumstances where a law firm has undertaken the legal work at the time the bill is rendered, but will be incurring a known disbursement to complete a registration or other similar function. For example, a will is drafted, and the client comes in to execute it. The bill is rendered, including a charge for the disbursement of registering the will in the Wills Registry, which will be done at a later date.

46. Rule 8-0.4 was added to implement recommendation 23 of the Trust Review Task Force. In making that recommendation, the Task Force commented as follows:

> …. the Task Force learned that some lawyers charge anticipated disbursements and deduct that sum before the disbursements are incurred. In addition, in some cases unused portions of the pre-billed disbursements are not paid to the client. Such conduct has been the subject of disciplinary proceedings and has resulted in sanctions. The Task Force recommends

clarifying that billed disbursements must have been actually incurred, and that there is no entitlement to any amount that exceeds the actual disbursements incurred.

47. The situation (and others like it) described in the comment received would fall within the concern of the Task Force, although the likelihood of an issue arising in such a case is admittedly low. While the lawyer would have completed the legal work entitling them to the fee immediately, the actual retainer would not be complete until the will was registered, so the chance of the disbursement being misappropriated is slight. Rule 8-0.4 could be complied with by placing the cost of the disbursement into the pooled trust account and withdrawn into the general account once the disbursement is incurred, but given that the disbursement is small, those extra accounting steps may understandably be burdensome.

48. The Executive Committee discussed this issue and agreed to recommend a revision to the proposed Rule 8-0.4 as follows in order to address the issue raised:

> **8-0.4** A law firm must not bill for disbursements or expenses before they have been incurred except by prior written agreement with the client for known disbursements for filing or registration fees.

Effective Date

49. Staff had initially proposed that the new accounting and related Rules come into force on January 1, 2027.

50. While that would be an ideal date because it would be the start of a new accounting year for many of the law firms in the province, realistically it is understood that that date would likely be too soon, given the magnitude of the changes to the Rules and the necessity for firms to familiarize themselves with the revised requirements.

51. It would also be too soon for staff to prepare much in the way of guidance or assistance for implementation of the new Rules.

52. A more realistic start date would be July 1, 2027. Staff will advise if it is necessary to delay implementation past that date.

Decision

53. The Benchers are asked to pass the resolution attached at Appendix “D.”