

New requirements for “negotiated cheques” under Rule 122(2)(i)

Rule 122(2)(i) of the Rules of the Law Society require firms to maintain bank source documents, which include negotiated cheques. This applies to both trust and general bank accounts. In the past the Law Society has taken the view that the rule requires the original negotiated cheque to be maintained.

Recently the Canadian Payments Association (CPA) announced plans to change the cheque clearing system from a paper system to digital images. This means most banking institutions will no longer provide the original negotiated cheque to an account holder.

Given this change in the banking industry, the Law Society acknowledges that a printout of a digital image of the negotiated cheque will satisfy the requirements of Rule 122(2)(i), provided the following criteria are met:

1. the digital image is printed and the paper copy is maintained with the bank source documents,
2. both the front and back of the negotiated cheque is included in the printed copy of the digital image
3. the printed copy of the digital image is easily legible, with a maximum of 8 images per page (4 cheques, front and back). Please check the image quality immediately and request replacement images as necessary.

The retention period for the printed copy of these cheque images has not changed, remaining at 10 years as provided in Rule 122(5)(b).

Most banking institutions have indicated that digital images will accompany the monthly bank statements. However, some institutions will only be attaching the digital image of the front of the cheque, unless a specific request is made, but we understand that some will accommodate Law Society requirements by sending out a CD-ROM with digital images of the front and the back of the cheque at no additional charge. We also understand that the digital images of the front and back of the cheque will be available on-line or at the branch, with the cost of this service varying with the institution.

If your law firm does receive a CD-ROM of the digital images in lieu of the attachments to the bank statements, you must print the images monthly to be in compliance with 122(3)(b) – printing of computerized accounting records.

If you have any questions about this (including questions regarding what to do if your financial institution cannot provide the required information) or any other accounting rule obligation of your firm, please contact Glen Arnston at 780-412-2304 or Donna Kanomata at 403-229-4784.