

Voluntary Commitments and Codes of Conduct Commitment on Powers of Attorney and Joint Deposit Accounts



This Commitment sets out the information about Powers of Attorney (POAs) that banks will make available to clients who want to give someone else the authority to do banking for them. The Commitment also sets out information that the banks will make available to their clients about joint deposit accounts (JDAs).

Application and Implementation

This Commitment applies to interactions with clients who are natural persons and their attorneys and, for the purposes of the JDA provisions, to natural persons opening new personal deposit accounts or converting a sole-ownership account to a JDA. For clarity, this Commitment does not apply to business clients or commercial accounts.

Banks will implement the provisions of this Commitment related to disclosure of the required information about POAs and JDAs on their websites by September 1, 2014 and in the branches by December 31, 2014; and will implement the staff training provisions by March 31, 2015.

Required Information

Banks cannot provide legal advice to their clients. Banks will, however, make available information about POAs and JDAs, covering the following topics:

1. A bank may offer its own form of POA to clients as an option, but will not require such form to be used.

2. General information about bank-form POAs, POAs and JDAs

For example, concerning bank-form POAs, if a bank offers a bank-form POA, it will indicate that clients may obtain POAs through other sources, including from legal professionals. It will provide information that the bank-form POA may impact arrangements set out in pre-existing POAs – e.g., it will indicate to the client that advice from a legal professional may be beneficial to identify whether there may be conflicts between a bank-form POA and a pre-existing POA.

For example, concerning POAs, the client may make changes or cancel a POA at any time, as long as he or she is mentally capable.

For example, concerning JDAs, a joint holder of the account might use the funds in the account for their own purposes without the consent of the other JDA holder; or the funds deposited in the account by one JDA holder might be subject to creditors' rights or other claims that might exist against the other joint holder.

This provision will be satisfied if a bank provides the client with [What every older Canadian should know about Powers of Attorney \(for financial matters and property\) and Joint Bank Accounts](#), produced by the Federal/Provincial/Territorial Ministers Responsible for Seniors. Alternatively, a bank may choose to provide its own form of disclosure that contains the information outlined above.

3. The bank's minimum requirements for an account to operate under the authority of a POA.

For example, a bank may require the client or attorney to present the original POA or a notarized copy of the POA; and a bank will require proper identification from both the client and the attorney to meet anti-money-laundering and other legal requirements.

4. If a POA or attorney's instructions require further review when presented to the bank, except where the review is related to potential financial abuse or other illegal activity, the bank will inform the client or attorney that a review is required and provide a general timeline for the review and that certain reviews may require more time.

For additional clarity, where the review is related to potential financial abuse or other illegal activity, a bank is not required to inform, and may in fact be prohibited from informing, the attorney about the review.

5. The recourse available to clients or attorneys where a bank refuses to act on a POA or attorney instructions.

The bank will make available information on its dispute resolution process to assist the client or attorney to escalate and resolve their concern.

Manner of Presenting Required Information

Banks will provide the required information in language, and present it in a manner, that is clear, simple and not misleading.

Banks will make the required information available in their branches and on their websites through which retail banking products are offered in Canada.

Staff Training

By March 31, 2015 and on an ongoing basis as necessary thereafter, banks will provide staff who deal directly with individual clients or their attorneys with training to increase their awareness of

1. the bank's policies and procedures related to disclosure of the required information; and
2. the resources available within the bank to assist staff with more complex issues.