

TIPS FOR USING THE RA7ALL OR THE RA7F+L WITH FINANCIAL-TYPE INSTITUTIONS

This information and tips relate to the RA forms provided by the Nidus Resource Centre.

- Find RA forms provided by Nidus at <https://www.nidus.ca/> – click RA Forms in right sidebar, under Highlights
- We recommend you also read the [General Guidelines for Using RA](#)
- Nidus also provides specific tips for [Using the RA for Health and Personal Care matters](#) (Note: the RA7F+L does not include authority for health or personal care matters.)

HOW TO GET STARTED? – GET INFORMED!

1. Check that the Representation Agreement includes **authority for routine management of financial affairs**. On RA forms by Nidus look under heading “Authority of representative.”
2. Is the individual named as the representative the adult’s spouse? If not, make sure the Representation Agreement includes an extra-safeguard. Most commonly, this is would be someone named in the monitor role.
3. Read the definition of ‘routine management of financial affairs’ to see what a representative may do and what a representative cannot do.

Some things about what a representative can do are open to interpretation.

What is most important is the list of EXCLUSIONS (what a representative cannot do).

- Nidus has a [fact sheet about the definition](#) and includes commentary on how it was developed and the intent. The fact sheet also includes information about people’s experiences.

OR

- Read the legislation – [Representation Agreement Regulation](#)

4. Read about the [built-in safeguards for the RA7](#). There is still a lot of skepticism among financial institutions and legal professionals about the RA7 for routine finances – because of the inclusive RA7 approach to capability. There is a lot of discrimination against people with intellectual disability (cognitive impairment) – maybe you have encountered it.
5. Be prepared to provide the original (or copy) of the RA7All or RA7F+L – it is proof of the representative’s authority.

Nidus gets questions asking if there is a need for a Power of Attorney. Usually the representative is misinformed or misunderstands. Often the RA already has authority for routine finances but the representative doesn’t seem to know. Also, the adult may be capable to make the RA7 but not a type of power of attorney. In BC, there are two kinds of power of attorney: 1) a non-enduring Power of Attorney and 2) an Enduring Power of Attorney. Both kinds can only be made by an adult who is cognitively capable to understand.

DEALING WITH FINANCIAL INSTITUTIONS (BANKS OR CREDIT UNIONS)

First, make sure YOU are on the right track:

- A representative can **NOT** use the RA7 to set up a **joint bank account** with the adult.
 - There is no need to do this as the RA7All or RA7F+L gives legal authority to the representative to access the adult's bank account and help with banking matters.
 - There are ethical reasons not to.
 - > Joint bank account have no safeguards. Even if the money in the bank account only belongs to one owner, the other owner listed on the joint bank account has full access to all the money.
 - > The RA7 provides accountability and protection for the adult, the representative and the financial institution.
- Make sure you have read the **definition of routine management of financial affairs**. Link is listed at #3 on previous page.
- The representative is the individual who has legal authority to act on the adult's behalf for routine finances – not the monitor, not the home share provider or group home staff.

Next, the adult or their representative:

1. Make an **appointment** to meet with a manager at the financial institution. Do NOT go to a teller, the first time.
 2. Take the **original** RA7ALL or RA7F+L with you.
 3. The manager can make a **true copy** (sometimes called certified copy) of the original RA.
 - Making a true copy is when the manager makes a photocopy of the original and then marks on the photocopy that it is a 'true copy.' The true copy is for the files of the financial institution; the original must be returned.
 4. Once the true copy is in the files, you can deal with a teller. Be prepared to show identification. The teller needs to make sure the representative is the person named in the RA.
 - The RA Act says a representative can get help with their duties from a qualified person. For example, a home share provider does not have authority to act on the adult's behalf for finances, but the home share provider might be better able to do things at the financial institution. The representative needs to take responsibility to arrange this. The home share provider cannot make any decisions, this is up to the representative, but the home share provider could help carry out the decisions. The best approach would be for the representative to give permission in writing. The representative should also have a discussion with the manager of the financial institution. It is always important to be open and transparent and ask for help to do things. The financial institution might want a copy of the written permission for their files.
- ❖ Yes, a representative named in the RA7ALL or RA7F+L has been able to set up a Registered Disability Savings Plan (RDSP) on behalf of an adult, through the financial institution. The adult is the beneficiary of the RDSP and the representative is the Account Manager.

- ❖ Representatives have also been able to purchase Tax Free Savings Account on behalf of the adult – just be sure the designated beneficiary is the adult’s estate as required by the definition of routine finances.
- ❖ A representative cannot delegate their authority to make decisions EXCEPT with respect to investments – but only to a qualified investment specialist (like a mutual fund manager).
- ❖ The issue of a representative getting/using the **adult’s bank/ATM card** and doing online banking is a grey area.
 - Some financial institutions have gone with it; some not.
 - Your best argument for it is that it is not specifically excluded.
 - Lawyers representing the financial institutions at discussions about the definition of routine finances argued in favour of putting remote/online banking on the list of what a representative can do. The government did not add this. But it is also not on the list of exclusions (what a representative cannot do)
 - Consider industry changes since 2001, when the current definition of routine finances was put into effect. Financial institutions have made online banking a preferred option for service delivery – and especially during Covid.
 - It is a bit of a mystery why financial institutions have not implemented a system of authorizing representatives separately – for example, give them a bank/ATM card for the adult’s account but in the name of the representative. This would allow the financial institution to track the representative’s activities.

WHAT IF THE RA IS REFUSED?

1. Ask why it is refused?

- It is best to get reasons for refusal in writing, but you can take notes.

TIP: Do not go to the appointment alone. It would be good for the monitor to go with the representative. Having another person present means someone else hears about the refusal and can help provide information and take notes.

- Maybe the form was not filled in correctly.
- Maybe there is concern about abuse or money laundering.
- Sometimes staff at the local branch are not educated on Representation Agreements.
 - > When you bring in the RA7All or RA7F+L it might be the first one the staff have seen.
 - > Sometimes the staff refuse to even look at the document. Maybe they have been warned that people make up paperwork that is not based on legislation.
 - > It can be easier to say ‘no’ than to do research.
 - > Saying ‘no’ sometimes makes people go away quietly.

2. You want to be polite but you can be firm.

- The Representation Agreement Act is a LAW in BC (since 2000).
- If things cannot be resolved at the branch level, escalate the issue (go higher up).
 - For example, ask the branch manager to send the true copy to the head office.

TIP: Nidus suggests contacting your MLA. If you are dealing with one of the national banks, also contact the MP.

- Sometimes you get passed around, especially if you are dealing with a national bank. The MLA might say ‘it is a federal issue,’ the MP might say ‘it is provincial legislation.’
 - In order to operate in BC, national banks have to go by the laws and rules in BC. They do this for mortgages and other financial products. So, their response to the RA7 needs to go by BC legislation, not policies from their head office in Ontario.
 - You also need to know that there is nothing in law to compel a financial institution to accept the RA7. However, they accept Wills and types of power of attorney and some hand out their own Power of Attorney forms (do NOT use). You may notice contradictions among their policies and this often happens with large systems – change can take a long time.
- The Accessible British Columbia Act was put into effect in 2021. It calls on the BC government and various BC agencies to ensure policies and services are accessible. The RA7 is very helpful to them for this. Unfortunately, the legislation does not currently apply to financial institutions but many financial institutions already have policies to state they are accessible and inclusive. You might challenge this.
 - It seems contradictory if banks and credit unions (or their lawyers) create barriers for the RA7ALL or RA7F+L when these same institutions have policies about inclusion and diversity. On the other hand, reports of money laundering and financial abuse have put more pressure on the financial services industry. Sometimes fear causes people and institutions to lose perspective.

TIPS - Be cautious:

- If you are told by a financial institution to get a letter from the adult’s doctor to back up the RA7ALL or RA7F+L – this may not be a good idea. Doctors tend to write letters about how incapable an adult is and then this backfires.
- If you are told that the RA7 must be signed by a lawyer or notary public – this is NOT true.
- If you are told you have to pay for a lawyer to review the RA7 – do NOT do this, it is not true.

DEALING WITH CANADA REVENUE AGENCY (CRA)

- CRA allows a ‘legal representative’ to do things on behalf of an adult.
- CRA recognizes a representative named in a Representation Agreement as a ‘legal representative’. You can read the CRA definition at <https://www.canada.ca/en/revenue-agency/services/tax/representative-authorization/legal-representative.html>
- Yes, representatives named in the RA7ALL or RA7F+L have been able to apply for the Disability Tax Credit on behalf of the adult.

TIP: We find it is best to deal with CRA by **regular mail**, the first time because not all staff are trained about Representation Agreements.

- It is also the best way to get the RA7ALL or RA7F+L on file for the future or ongoing purposes.
- Send a photocopy of the RA7 with your current request and ask them to put the RA7 on file for the future.

DEALING WITH FINANCIAL INVESTMENT COMPANIES

- If the adult has a financial advisor, they should have a copy of the RA7All or RA7F+L for their files.
- As you can read on the definition of routine finances, a representative can make investments, manage and dispose of investments on behalf of an adult. The financial advisor may need a copy of the definition of routine finances.

DEALING WITH AUTOPLAN

- As you can read in the definition of routine finances, a representative can do some transactions with respect to motor vehicles.
- ICBC Autoplan was one of the first agencies in BC to write policies to recognize the authority for routine finances in an RA7. Their policies were extremely respectful of people with cognitive impairment – a model!
- We find that most Autoplan Agents/Brokers are trained and have policies to refer to that are consistent with what a representative can do according to the definition of routine finances. If you run into a problem, try suggesting ICBC procedure with topic ID *P068C0*).
- Of course the Agent/Broker will have to see the RA7ALL or RA7F+L to verify the authority of the representative.

DEALING WITH INSURANCE COMPANIES

Make sure you read the definition of routine finances to see what a representative can do with respect to private insurance.

DEALING WITH SERVICE CANADA

- Yes, a representative named in a RA7ALL or RA7F+L can deal with government pension matters (Old Age Security and Canada Pension Plan). (And Guaranteed Income Supplement if applicable.)
- A representative can apply for these benefits on behalf of an eligible adult.
- A representative can instruct Service Canada to direct the adult's funds to a different bank account. Be sure the bank account is in the adult's name. The RA7ALL or RA7F+L allows a representative to deal with the adult's bank account on the adult's behalf – but it needs to be in the adult's name. (And that is the beauty of RAs – ownership and rights stay with the adult. This is consistent with the principle of self-determination. It is ethical and it is affirming of the individual and personhood.)

DEALING WITH PWD (Person with Disability) BENEFITS

- Yes, a representative named in the RA7ALL or RA7F+L can deal with BC government PWD benefits on behalf of the adult. (PWD is administered under the BC Ministry of Social Development and Poverty Reduction).
- Staff of this BC Ministry sometimes give wrong information and say the Representation Agreement is not accepted. This is mis-information.
- It may be that there is a lot of staff turnover; but the BC Ministry staff should know the laws of BC – like the RA Act.
- This same Ministry is the contact for the Accessible BC Act so we may see improvements. Nidus will write again to the Ministry about the problem. We will also ask for help from Community Living BC (a crown corporation under this Ministry).

SETTING UP A TRUST?

There are different kinds of Trusts:

- Sometimes a Trust is created in a Will and when the will-maker dies, the terms of the Trust come to life.
 - The will-maker likely set up a Trust to manage the inheritance of a relative with a disability – the inheritance goes into the Trust rather than go directly to the individual with a disability. This can be a way to protect the person with a disability from clawbacks of their government benefits.
 - A Trust will name Trustees.
 - The Trustee will look after the inheritance in the Trust.
 - A representative can advocate with the adult for the Trustee to release funds from the inheritance.
 - The Trustee has to follow the terms of the Trust so a representative wants to ensure their advocacy is reasonable within the terms.
- Some definitions of a Trust would include the RRSP and RDSP (Registered Disability Savings Plan). Many would not think of the RRSP or RDSP as being a type of Trust, probably because these are thought of as financial documents and the paperwork is managed by financial institutions or financial advisors. But CRA – which recognizes the RA7 – classifies the RDSP as a type of Trust.
- As mentioned earlier, representatives named in an RA7ALL or RA7F+L have been able to set up a RDSP. The definition of ‘routine management of financial affairs’ specifically mentions a representative can establish a RRSP. Therefore, it is logical to think a representative named in a RA7ALL or RA7F+L can set up any kind of Trust.
 - But a representative may face challenges if creating a Trust from scratch. The lawyer you go to about creating a Trust may not be willing to recognize the RA7ALL or the RA7F+L.
 - As a group, lawyers were skeptical about the RA7. (They are also skeptical about e-Wills as the Ministry of Attorney General staff are finding out – even though e-Wills are set out in the legislation.)
 - > This is not all lawyers, as we would never get the RA7 into law if it wasn’t for help from lawyers. But many lawyers remain skeptical. Lawyers tend to look for the okay if it is in legislation or if a court case (judge) says yes.

- Here are some things you can argue in favour:
 - > The law gives the representative legal authority to ‘obtain legal services.’ (This is an authority in the RA7ALL and the RA7F+L – look under heading ‘Authority of Representative’.)
 - > The [definition](#) for the authority of routine management of financial affairs includes the RRSP (a type of Trust) (see 2(1)(p) and has a ‘catch-all’ provisions for what a representative can do (see 2(1)(aa))
 - > Also, setting up a Trust is not on the list of exclusions. It is not listed under what a representative cannot do (2(2))

Representatives have found some other solutions to setting up a Trust from scratch:

- An adult can have up to \$100K in their bank account before clawbacks on their PWD (BC government benefits to persons with disabilities). The bank account limit used to be \$3K so this has made a big difference.
- In BC, the RDSP is exempt from PWD clawbacks so representatives are setting up an RDSP for the adult and putting the inheritance in the RDSP.
- These may not be ideal solutions but until attitudes change, it may be an option.

EXAMPLES OF IMPOSED AUTHORITIES RELATED TO FINANCES

Making a RA7ALL or RA7F+L is a way that an adult may avoid imposed authority.

- **Adult Guardianship (called Committeeship in BC) may be IMPOSED** on an adult.
 - Adult Guardianship/Committeeship is based on an old philosophy.
 - > Someone can hire a lawyer and apply to the Supreme Court of BC to be appointed by a judge to take over the adult’s decisions for financial and legal matters (committee of estate).
 - > There is a way, without going through court, the Public Guardian and Trustee (PGT) can take over an adult’s financial and legal affairs (become committee of estate or property guardian).
 - Under guardianship/Committeeship:
 - > Adults lose their rights – some call this civil death.
 - > Adults becomes a ‘non-person’ under the law.
 - > Once adult guardianship/Committeeship is in place, it is difficult to reverse.
 - Sometimes a spouse or family members of a senior have to pursue Committeeship because the ‘routine finances’ in the RA7ALL does not include dealing with the adult’s real estate. However, Committeeship can take 3 or 4 months or longer and meantime the RA7ALL can help with many practical things like paying bills.
- **Trustee of Pension** is another type of **imposed authority**.
 - It is a program through Service Canada but only for the adult’s federal pension income.
 - > It does not authorize dealing with other financial matters like taxes or banking.
 - > It also has nothing to do with health care, personal care or legal matters.
 - > Health care providers and the Public Guardian and Trustee will sometimes refer an adult’s finances to the ‘Bloom Group.’ The Bloom Group applies to act as Trustee of Pension and charges fees for its services.