



Powers of Attorney and Joint Accounts

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Two ways that allow other people to access your money

We all want to know our financial affairs are in good order, even when circumstances mean we're no longer able to manage them ourselves without assistance. Powers of attorney and joint accounts are two ways you can allow other people to access your money.

Look inside this brochure to learn how powers of attorney and joint accounts work to help you decide if these are right for you. Understanding this will help you gain a better perspective on whether or not you want to use them and how they might fit into your plans.

What is a Power of Attorney?

A power of attorney is a legal document in which you assign one or more individuals, known as an "attorney," the authority to act on your behalf regarding property, including financial or legal matters.

Don't let the term "attorney" confuse you. While you may choose a lawyer for this role, it's more often someone close to you - a friend or family member or a corporate attorney such as a trust company - who will act with your best interests in mind.

You can give them the authority to act on all your property and financial matters, or it can be limited to specific functions, such as managing your investments. In short, the power of attorney is the document and the attorney is the person you appoint to act in your place.

Are all Powers of Attorney the same?

No, not all powers of attorney are the same and your document can be customized to reflect your needs and updated to reflect changes in your personal situation. For example, unless specifically stated, your attorney is no longer authorized to act on your behalf should you become mentally unable to manage your property. But if you decide to create an "enduring" or "continuing" power of attorney, your attorney can continue to act on your behalf, even if you become mentally incapable. An *enduring power of attorney* can take effect as soon as you sign it, and continue should you experience mental incapacity. Alternatively, you could create a "springing" power of attorney that takes effect only on a specific contingency, for example, if your family doctor determines that you are no longer mentally able to manage your own finances.

In Quebec, a power of attorney is also known as a mandate and an attorney is also known as a mandatary. With a mandate you can include provisions so your mandatary can administer your property in the event of your incapacity. However, in that case, the mandatary must request the mandate be confirmed by the court, a process known as homologation.

Many people who suffer from disability and chronic illness choose to have an enduring power of attorney, as it gives them security in knowing that someone will be able to manage matters should their condition unexpectedly worsen.

Do I need one? Everyone's needs are unique and you should discuss whether you need a power of attorney with your legal advisor, based on your circumstances. Perhaps you're out of the country for an extended period of time and want someone back home to manage your banking on your behalf. Maybe you do want to plan for possible mental incapacity.

If you do choose to appoint an attorney, it's very important that you choose the right person to handle this critical responsibility.

Who can be an attorney?

Anyone you trust to make decisions on your behalf can be your attorney, as long as they are mentally competent and have reached the age of majority in your province or territory*. CIBC employees are not permitted to act as attorney for CIBC clients, except where there is a close family relationship, and the appointment has been reviewed and approved at CIBC's sole discretion.

Whom should I choose?

Since this decision can have a significant impact on your well being, carefully weigh your options when *selecting* your attorney. And remember, you can choose more than one attorney. The choice is ultimately yours to make, but we suggest someone who:

- You trust completely
- Is knowledgeable about financial matters
- Understands and is accepting of the role
- Knows your wishes
- Is located near you geographically, for convenience

Some people appoint a trust company, such as CIBC Trust, as their attorney for property, perhaps jointly with a family member or close friend. The trust company brings expertise to the relationship, while the family member or friend has a personal understanding of your motivations and wishes. Whoever you choose, make sure they're willing and completely understand the duties they're responsible for.

How do I get started?

You should consult a legal advisor as to the requirements in your province or territory and your personal circumstances. CIBC can provide you with a Power of Attorney form that is specific to products and services at CIBC, but you are not required to use it. You can also use a form prepared by a third party, such as your lawyer, or a form you've downloaded from the Internet, purchased or received from your provincial government.

*Additional qualification requirements may apply in your province or territory.

Requirements to operate under a power of attorney

While requirements may vary depending on the circumstances, the following are the basic requirements for both the "grantor" (the account holder who is assigning power of attorney) and the "attorney" (the individual acting on the account holder's behalf) for an account at CIBC to operate under the authority of a Power of Attorney:

- If using a CIBC form of power of attorney, you and your attorney should visit a CIBC Banking Centre to complete the document. Though usually not required, we recommend visiting your home banking centre and having your attorney present to make the process as easy as possible.
- For non-CIBC forms of power of attorney, the form presented at the banking centre generally can be either the original or an original notarized copy, made recently, within the last 30 days. For CIBC power of attorney forms (see below) the original must be presented.
- In some provinces, the power of attorney must also be signed by the attorney and witnessed or it may require a specifically worded accompanying certificate as easy as possible.
- The attorney and the grantor need to meet existing CIBC standards for identification; each must provide ID requirement is 1 unless their is an investment account. acceptable identification, one of which must be government-issued and include a photo. For a comprehensive list of acceptable identification, please visit [cibc.com/ca/acceptable-identification.html](https://www.cibc.com/ca/acceptable-identification.html).
- If the power of attorney was executed outside of Canada, you may be required at your own cost to provide a statement from a lawyer, licensed to practise in the jurisdiction where the power of attorney was executed, that it was indeed validly executed and complies with that country's laws.
- In some cases, upon completing the power of attorney, CIBC will keep a "certified true copy" and provide the original to you for your safekeeping. In other cases, CIBC will maintain the original.
- You and your attorney may be asked to complete an Attorney Acknowledgement and Indemnity Agreement in the presence of banking centre staff.

- For your borrowing needs, products such as mortgages and personal loans may have additional requirements for operating under a power of attorney.
- Each attorney must indicate their birth date and occupation.

Making changes

As long as you're mentally capable, you have the right to change or cancel the power of attorney at any time. Certain provincial or territorial conditions apply. As your needs change, so can the document. Just make sure CIBC and any other financial institutions you have accounts with have the applicable version on file.

If you have an existing power of attorney and create a new power of attorney, including on a form provided by CIBC, make sure you are aware of the impact of the new document. Consider speaking with a legal professional to determine if there are any conflicts between the new form and the previous document, and whether the new power of attorney revokes the earlier power of attorney.

What if CIBC needs to conduct a further review?

On occasion, CIBC may question the authority of the attorney to give instructions on your behalf or the acceptability of the power of attorney document.

In these cases, CIBC will inform you or your attorney that a review is required and will indicate the expected duration of the review.

This process can vary in duration, depending on the complexity of the issue. For example, if the power of attorney form is a photocopy, your attorney will be asked to provide an original or an original notarized copy. Some issues may be more complex and require a more thorough review. Please note that if the review is due to CIBC having concerns related to potential financial abuse or other illegal activity, CIBC may be prohibited by law from disclosing its concerns to the attorney and will investigate accordingly.

Escalation process regarding CIBC's review

Should you or your attorney not agree with CIBC's findings, any concerns should be discussed with an advisor at your local banking centre. If the advisor is unable to resolve the matter, disputes will be escalated appropriately within CIBC.

You can learn more about our dispute resolution procedure by asking for a printed copy of CIBC's **Our Service Commitment to You** document, which is available at any CIBC Banking Centre, by calling CIBC Telephone Banking or online at cibc.com/ca/cibc-and-you/to-our-customers/service-committ.html.

What about joint accounts?

Some people may see joint accounts as a "simpler" alternative to a power of attorney. But they are not really an alternative - as they are actually a transfer of ownership and can be risky.

With a joint account:

- Two or more Individuals own the account and have access to it
- Each person can deposit, withdraw or transfer funds
 - regardless of who contributed the funds into the account and
 - without the consent of the other joint account holder(s)
- Deposits payable to only one of the joint account holders can still be deposited into the account

However, these characteristics of a joint account may be risks.

Some other risks to consider include:

Funds in a joint account may be subject to claims by the creditors of one of the joint account holders. In the case of a marital breakdown of one of the joint account holders, the account could be considered a matrimonial asset and divided accordingly.

When an account is in your sole name, your money ordinarily will not be subject to claims by creditors or matrimonial rights of your attorney.

Joint accounts can leave you vulnerable to financial abuse, since all account holders have full and equal access to the funds regardless of where they originated.

With a power of attorney, the law requires that if you are not capable, the person you have named as your attorney must act in your best interest and use your money for your benefit. If funds are misused, you or someone acting on your behalf can call on legal authorities to assist.

On death, assets in a joint with survivorship account generally will bypass your estate and be then owned wholly by the surviving account holder, regardless of your estate plan. A power of attorney ends on your death and does not affect how your property passes.

Informing Seniors

Understanding powers of attorney and joint accounts is an issue that is particularly important for senior citizens, as they can be more vulnerable to financial abuse.

You must understand that the power of attorney may grant the attorney authority to do almost anything you could do with your own property.

Working cooperatively, the federal and provincial governments have created an online brochure on this topic, *What every older Canadian should know about: Powers of attorney (for financial matters and property) and joint bank accounts*. You can access this document at: www.canada.ca/content/dam/esdc-edsc/documents/corporate/seniors/forum/brochure_attorney.pdf

Get good advice

Many people draft powers of attorney at the same time they create or update their wills.

This is a great idea, because you are making important decisions when you are healthy and able to take your time to make a plan that best suits your needs. As with all estate planning, the key is to get good advice from a knowledgeable legal specialist and put your plans in place before you need them. This can provide you with peace of mind regarding your wishes for yourself and your family. It is always wise to create a power of attorney when you are not in a crisis situation so that your wishes are clearly stated.

At CIBC, we encourage you to engage in a conversation to determine the approach that will best meet your needs.

Choosing the right path, such as developing a plan for a power of attorney and understanding what it means to set up a joint account, is crucial to building the right plan for your future. Putting in place a plan so that your wishes can be followed is an important step to having peace of mind, both now and in the future.

For more information

talk to a CIBC advisor

visit your nearest banking centre

visit cibc.com

call 1 800 465-CIBC (2422)

This brochure is intended to provide general information only. It should not be construed as specific financial, legal, tax or other advice and you should not rely on it as such. Careful consideration of individual circumstances is critical before making any decisions; we recommend that you consult your own professional legal advisors for further advice concerning your particular situation.

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