

What is a joint bank account?

A joint bank account is an account in which two or more people have ownership rights over the same account. This includes the right for all account holders to deposit, withdraw, or manage the funds in the account, no matter who puts the money into the account.

Why or when should I open a joint account?

You may choose to open a joint account for many reasons and it is important to consider both its advantages and risks. Having a joint account means you will share equal access to the account and the responsibility for all transactions made. Unless specifically stated, any person named on the joint account is allowed to withdraw money from the account at any time, without the other joint account holder's consent. Additionally, the funds of the joint account could be claimed by creditors for any money owed by one of the joint holders.

What is required to open a joint account?

All applicants must be present and provide the required identification when opening a joint account. The account can only be opened in the names of those who are present at the time of the account opening – additional names can be added at another time.

How is the signing authority set up for the account?

The applicants make the decision of how they want the account to be set up. The choices available are:

- All to sign: all account holders signatures are required for any transactions on the account
- Anyone to sign: any of the applicants/owners of the account are able to sign for transactions on the account. It is important to realize that this option allows the other account holder(s) to transact without your consent.

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Can I convert my account in my name only to a joint account?

Yes, the person(s) being added to the account must be present and provide required identification. Keep in mind the other person named as joint owner will have access to any funds that are already in the account even if all were deposited by you.

What if I want to remove someone from being able to sign on a joint account?

We will close the account and open a new account in your name only. The request can be made by any of the account holders who have individual (anyone to sign) signing authority. Consequently, you need to be aware that some situations, such as disputes between account holders (for example, a divorce or separation) may lead to control over the full amount of joint funds by the other person named on the account.

What happens to this account when an owner dies?

This is determined by the latest signed account documentation on file. If it was set up with:

- *Right of Survivorship (not applicable for residents of Quebec – please see Note 2):* the funds are accessible to the survivor(s)
- *No Right of Survivorship:* the funds are now part of the Estate of the deceased. In Quebec, the share of the deceased is now part of the Estate.

Note 1) In some cases both the survivor(s) and the Estate will have the authority to access the funds – check with your branch to find out more.

Note 2) For residents of Quebec, there is no right of survivorship. The account will be frozen. The funds in the joint account belong equally to the estate and the joint owner(s) of the account, unless the liquidator and the joint owner(s) agree otherwise in writing. In such a case, the funds can be released separately to the estate and the joint owner(s) pursuant to the terms of their agreement.

Additional information

If you want more information, you should consult a lawyer, or you can visit the Government of Canada website, at seniors.gc.ca/eng/working/fptf/attorney.shtml and review their brochure, "What every older Canadian should know about Powers of Attorney (for financial matters and property) and Joint Bank Accounts".

Understanding a Power of Attorney and Joint Accounts

Planning ahead for a time when you may need help managing your money, property and finances can bring peace of mind. We can help you understand your options.

What is a Power of Attorney?

A Power of Attorney (POA) is a legal document signed by you, authorizing one or more people to manage your affairs, including your finances and property. The person granting the POA is called the “donor” (in Quebec, mandator or mandatory) and the person chosen to act on behalf of the donor is called the “attorney” (or “mandatary”). In order to sign a POA the donor must be mentally capable, understanding what they are signing as well as the legal and financial implications of doing so.

For the most part, there are the two types of POAs commonly used for managing finances and property in Canada:

(1) General Power of Attorney:

This type gives a broad range of powers to the attorney/mandatary over all or some of the donor’s finances and property. These powers can be specified, along with any restrictions, within the POA. A General POA is no longer valid if the donor becomes mentally incapacitated.

(2) Enduring or Continuing Power of Attorney:

(Note: Not applicable for residents of Quebec.)

This type allows an attorney to continue to manage a donor’s finances and property if the donor becomes mentally incapacitated.

An Enduring or Continuing POA can take effect as soon as it is signed or, in some cases, and if specified in the POA, only after the donor becomes mentally incapable.

Do you need a Power of Attorney?

Having a POA can give you peace of mind and security by allowing you to choose a trusted individual to manage your finances and assets should you not be able to do so yourself.

Prior to making any decision to grant a POA, it is recommended that you consult with a lawyer, financial advisor or other qualified professional to understand both your short and long-term needs to determine if a POA is suitable.

Should you decide the POA is for you, consult a lawyer to fully understand what your attorney will be able to do, and to ensure the document is valid under the laws of the province or territory in which it is intended to apply. Ask about how you or others can monitor your attorney’s actions, and what you need to do to change or cancel the POA.

Using a Power of Attorney with BMO Bank of Montreal

If you have a POA, you may use it to manage your affairs with BMO, provided the POA meets BMO’s internal requirements as follows:

- it is signed by the donor
- it is witnessed and dated
- It is the original, or a notarized or certified true copy
- it complies with the formal POA requirements of the jurisdiction in which it is to apply (province/territory or foreign jurisdiction)

BMO cannot accept a POA that:

- would require BMO to monitor the attorney’s activity
- is unclear about the attorney’s authority
- is for use with another Financial Institution, because it would not allow the attorney to conduct transactions with BMO

If you do not have an existing POA in place you have the option to:

- consult a lawyer, who can prepare a POA for you or,
- use a BMO form of POA to authorize your attorney to manage your affairs with BMO and several of its affiliates. Please speak to someone in a BMO branch to get more information about the BMO form of POA.

If you have an existing POA in place:

To avoid conflicts between the bank form POA and a pre-existing one, it is recommended you consult a lawyer to ensure the bank form POA does not compete with arrangements set out in a pre-existing POA. Whichever form of POA you use, the attorney must provide personal identification to set-up the POA at BMO to access a client’s accounts.

If a POA or an attorney’s instructions require further review before it can be accepted, BMO will inform you or the attorney that a review is required and will provide a general timeline for the review. If the review is related to potential financial abuse or other illegal activity, BMO is not required to inform the attorney about the review, and may in fact be prohibited from doing so.

What to do if BMO does not accept the Power of Attorney presented?

If BMO refuses to act on your POA you can take advantage of our dispute resolution process, which is described in detail in the “*We can help - Resolving Customer Complaints*” brochure available at all BMO branches.

Can I cancel the Power of Attorney?

You can cancel your POA, or make changes at any time as long as you, (the donor) are still mentally capable. You will need to advise BMO immediately, and if the POA is cancelled you must notify BMO in writing. A POA will terminate on the death of the donor and any BMO accounts will be managed according to the will/estate. In addition, in Quebec, the POA will terminate when the client is declared mentally incapable.

This information guide is for BMO Bank of Montreal clients seeking to use a power of attorney or joint account to manage their financial affairs with the bank. Information in this guide should not be used as a substitute for getting legal advice for your own particular situation.