CHASING DIRTY MONEY

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ANTI-MONEY-LAUNDERING REGULATIONS SPELL ADDITIONAL OPERATIONAL DILIGENCE.

MATTHEW DALEY

IF a scruffy guy named Anthony staggered into your office, plunked a duffel bag full of Bessies on your desk, and demanded: "I want life insurance," you'd quietly excuse yourself and go looking for the manager.

Unfortunately, today's white-collar criminals aren't so easy to spot.

To ensure terrorists, smugglers, drug traffickers, or other criminals don't corrode its financial institutions, the Canadian government recently enacted legislation to bring the financial sector more in line with the Financial Action Task Force's (FATF) international anti-money-laundering standards.

Bill C-25, which came into effect in June, introduced significant regulatory revisions to Canada's Proceeds of Crime (Money Laundering) and Terrorist Financing Act. The changes bestow new powers on the Financial Transactions Reports Analysis Centre of Canada (FINTRAC), to share information with domestic and international agencies, and to impose civil penalties for failure to heed a number of new risk assessment and reporting requirements.

This means firms will need to look at modifications to record-keeping and customer-identification practices. It will also add a layer of customer due diligence, risk assessment and the need to monitor for "politically exposed foreign persons"—translation: any clients who hold office, civil or military, in a foreign government, along with any close business or personal associates, and their immediate family members.

FINTRAC's regional officer, Jodi Angevine, says the regulations will require advisors to change how they think about money-laundering-related compliance. With the new rules in play, she says, advisors will likely see a rash of application-form changes.

Revised Regime

It will be an adjustment, to say the least.

Most life insurance providers are already integrating supplementary paper forms that **continued on page 48**

continued from page 47 will alert them to prospective clients with significant political involvement in other countries.

For example, on a lump sum payment of $100,000 or more for an immediate or deferred annuity or life insurance policy, insurance providers now have only 14 days to determine if the client has any foreign political involvement.

Additionally, insurance agents have been told to keep records of large cash transactions if a client makes a cash deposit of $10,000 or more at any one time, and to report the transaction to FINTRAC. If two or more cash transactions of less than $10,000 are made by the same client within a 24-hour period, and add up to $10,000, those also are considered a single large cash transaction and must be recorded and reported.

What's more, if a client's identity is in question, advisors need to re-identify him or her. Prior to the rule changes, once a client had been formally identified, there was no need to repeat the process. Advisors now are also required to report any suspicious transactions as they're being attempted—a sharp contrast from older laws, which allowed reporting of a suspicious deal after completion.

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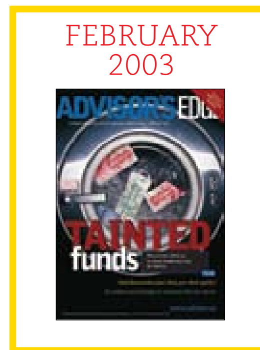

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In keeping with stricter ID requirements, it's also become mandatory to revise existing client lists for non-exempt products, such as large cash deposits into universal life policies or annuity products. Agents, who could previously withhold policies for clients until all the requisite information was supplied, now have to altogether refuse the policy if any information is missing. Furthermore, advisors can no longer accept new clients over the phone or through video conferencing. They are obliged to meet them face-to-face.

One of the most significant changes, according to Larry Boyce, vice-president of sales compliance and registrations at the Investment Dealers Association, is the huge reduction in the amount of time available for advisors to verify a customer's identity. "Dealers traditionally had up to six months after opening the account. Now they are required to [identify clients] before opening the account," he says.

Boyce notes one problem with money laundering rules internationally is a lack of coordination between privacy laws and AML laws. "There is a tendency for privacy concerns to trump money-laundering concerns, to the great detriment of anti-money laundering. The revised regulations will, hopefully, reduce the privacy expectations of highly regulated financial clients."

Mark Halpern, CFP, founder of illnessPROTECTION.com INC., doesn't think these additional regulations are too invasive compared to countries like England and Australia, which require full disclosure of commissions. "But it is only a matter of time before we become more regulated," he says.

Coping with Compliance

While the revised regulations will ensure drug dealers and other criminals have a tougher time disposing of ill-gotten gains on Canadian soil, Peter Lamarche, president of Blonde & Little Financial, Fonthill, ON, says racial profiling could become the unfortunate byproduct of heightened surveillance.

He points out the clients most affected by these regulations will be those belonging to minority groups and specific ethnicities. "On terrorist lists, you won't see names like Bob Brown. They'll mostly belong to people of Indian or Arab descent."

While advisors belonging to the same racial group as their clients would be better equipped to handle delicate situations, Lamarche worries conflict could erupt in the case of a racial or religious crossover, such as an Anglo-Saxon advisor questioning an Arab client.

In such situations, he advises it will be imperative to reiterate that these questions are consistently asked of every client, regardless of race or religion.

According to Richard Binnendyk, executive vice-president of Univeris Corporation, which provides enterprise wealth management services, the success or failure of the revised regulations will depend largely on how financial institutions incorporate them into their overall compliance regime. "It could end up being continued on page 51

GO TO JAIL?

FINTRAC implements a series of penalties for non-compliance. They include:

1. Failure to report a suspicious transaction or failure to make a terrorist property report—up to five years imprisonment, $2 million in fines, or both.
2. Failure to report a large cash transaction or an electronic funds transfer—$500,000 fine for a first offence, and $1 million for each subsequent offence.
3. Failure to retain records—up to five years imprisonment, $500,000 in fines, or both.
4. Failure to implement a compliance regime—up to five years imprisonment, $500,000 in fines, or both.

continued from page 48 a pain in the butt," he warns. "The, 'Well you know they're forcing me to ask these questions' approach won't work." Being upfront with clients would be wisest, he adds.

The revised regime will also spell trouble for advisors who don't report suspicious transactions to regulators. The penalty for non-compliance could be severe, in some cases reaching a maximum of five years in jail, $5 million in fines, or both.

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Despite the potential penalties, Preet Banerjee, wealth manager for Scotia McLeod, endorses the heightened regulations. "For decisions that could affect your financial lives for decades and decades to come, an ounce of prevention is much better than pounds of cure," he says.

Recognizing Red Flags

While formal training would entail procedures and policies for identifying suspicious activity through due diligence and an intensive Know-Your-Client process, certain subtle and not-so-subtle red flags in clients' verbal and non-verbal communication can tip off advisors. For example, ScotiaMcLeod branch manager John Scott says there is reason to worry if the client has high net worth but low income, or vice versa. There could also be problems if the client over-justifies the transaction, doesn't want correspondence sent to a home address, or maybe provides home or business telephone numbers that have been disconnected, do not exist, or are maintained by third-party services.

In addition to unusual behaviour, advisors also need to look out for odd activity. "For example, if a client makes an exceptionally large deposit, the advisor needs to check both the source of wealth and the source of funds," Scott says.

And when advisors do encounter suspicious activity or behaviour, Scott says it is imperative they bring it to the management's notice at once. "Don't try to solve it yourself, and don't let on [to the client] that you are suspicious." AE

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