

Compliance Update

FALL/WINTER 2017

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COMMON REPORTING STANDARDS (CRS) - effective July 1, 2017

To reduce tax evasion and improve tax compliance around the world, a Common Reporting Standard (CRS) has been developed – a global model for the automatic exchange of information on financial accounts.

To implement the CRS, Canada has passed legislation requiring Canadian financial institutions to gather tax residency information from account holders to identify reportable accounts. Further details can be obtained at the following website:

<http://www.cra-arc.gc.ca/gncy/bdgt/2016/qa08-eng.html>

Advisors must collect the client information. All carriers have accommodated CRS with either brand new life and investment applications or amendment forms. Some policy service forms have changed also.

ANTI-MONEY LAUNDERING (AML) CHANGES Effective July 1, 2017

To strengthen the fight against money laundering and terrorist financing, the Government of Canada has amended the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations and Guidance. **ALL insurance companies are required by law to obtain additional information about their customers.**

The new and updated forms include changes for non-registered investment and cash value insurance contracts to:

- Help identify where the client is resident for tax purposes and to gather their applicable taxpayer identification number (TIN),
- effective June 17th gather information related to politically exposed domestic persons and heads of international organizations,
- effective July 1st gather additional information to confirm a person's identity, and
- maintain sufficient records and evidence in their files to confirm client identity

REMINDER: FINTRAC requires ALL licensed advisors to update their AML training annually. There are a variety of sources available to obtain this training including the Global website:

<https://www.globalpacific.com/resource-centre/library/multimedia?company=267&title=&type=All>

Please be sure that documentation of this annual training is retained in your records.

Client Identification

1. Advisors are legally required to identify clients when they:
 - a) **apply** for a permanent product,
 - b) request to **convert** their coverage from a term policy to a permanent product policy,
 - c) request to **split** their policy to single lives.

Client identification is required within 30 days of receiving a conversion or policy split application, otherwise the policy request will be closed.

If any AML information is missing for non-registered investment or select insurance policies that have undergone conversion to a permanent product or had their policy split, the Advisor is responsible to provide it to the carrier.

NEW – REASON WHY LETTER EFFECTIVE 2018

In 2016 the Canadian Life and Health Insurance Association (CLHIA) created a task force to develop practices that promote needs-based selling and sales suitability.



CLHIA recommended the new **Reason Why Letter** for advisors to send to their clients after the sale. Provincial regulators fully support this additional requirement. CHLIA will coordinate the roll out with all member companies and their advisors.

A **Reason Why Letter** is to provide clients with documentation to review the product purchased and confirm product suitability. This new industry requirement which comes into effect in 2018, will help clients understand **what** they purchased, **why** they made the purchase, and **how** the products intended objective is to meet their needs.

This brief, easy-to-understand letter or email helps protect you and your business, builds trust with your clients and is an important aspect of sales suitability documentation. Sample client letters have been uploaded to the Global website documents library for your use.

F.A.Q

1. Which products require a Reason Why Letter?

It applies to all Individual Insurance products Life, CI, DI, and Segregated Funds.

2. Do transactions like segregated fund switches/transfers and additional deposits require a Reason Why Letter?

No

3. When does the Reason Why Letter need to be provided to the client?

For life insurance and CI/DI, no later than policy delivery

For segregated funds, the letter should be sent as soon as possible after the sale

4. Do I need to obtain and keep some form of acknowledgement that my client received my Reason Why Letter?

No; retain a copy of the letter or email in your client file for record keeping purposes.

5. When am I expected to implement Reason Why Letter into my practice?

The Reason Why Letter will be mandated for advisors to implement it into their practice by Summer 2018.

6. Will this requirement be part of compliance assessments?

Yes

7. Is this applicable to all provinces?

Yes

RECORD KEEPING

What are “Reasonable Measures”?

The term “reasonable measures” refers to activities advisors are expected to undertake in order to meet certain obligations. The Regulations explicitly state when you must take reasonable measures to meet an obligation.

For example, every person or entity that is required to keep a large cash transaction record must take reasonable measures to determine whether or not an individual is acting on behalf of a third party when conducting a large cash transaction, and then keep a record of that information. If, even after taking reasonable measures, certain information cannot be determined, gathered or confirmed; you have met the obligation.

NB. A **Large Cash Transaction** is **ANY** transaction of **\$100,000** or more in a **non-registered** investment or insurance (premium) product whether it be in the form of a cheque or transfer.

It should be noted that reasonable measures must not be confused with, and do not apply to data elements that are mandatory, that is, where information must be obtained before the transaction or activity can be completed. For example, if you are unable to obtain the name of the conductor in a large cash transaction, then that transaction cannot be completed.

Documenting “Reasonable Measures”

The Regulations have been changed to require that a record be kept when reasonable measures were taken, but were unsuccessful.

A reasonable measure is unsuccessful when you do not obtain a client response, such as a yes or no and you are unable to make a conclusive determination. When reasonable measures are unsuccessful, you must record the following information:

- the measure(s) taken;
- the date on which the measure(s) was taken; and
- the reason **why** the measure(s) was unsuccessful

You must document the reasonable measures that you take in your compliance policies and procedures. Unsuccessful reasonable measure records must be kept for at least five years following the date they were created.

When to Report a Suspicious Transaction

The advisor is required to assess any potential threats and vulnerabilities to money laundering and terrorist financing to which your business is exposed. You should consider a client’s refusal to provide, or your inability to obtain certain information as part of your overall assessment of client risk. Even if you have met your obligation to obtain information based on reasonable measures, the refusal or unwillingness to provide information may form part of your reasonable grounds to suspect that a transaction is related to a money laundering or terrorist financing offence and therefore, a Suspicious Transaction Report (STR) may be required to be submitted to FINTRAC.

ADVISOR COMPLIANCE MONITORING

Insurance companies are taking steps to enhance their business standards to ensure compliance and regulatory requirements are met. Advisors can expect to receive random “Compliance Assessments” from carriers to verify compliance in areas such as E&O coverage, Disclosure, Continuing Education and Needs Based Sales Practices. In addition, Privacy and Anti-money laundering policies will be questioned and/or reviewed. Participation is mandatory. In the event you are selected for a review by any of your contracted carriers, we request that you communicate with compliance@globalpacific.com

Non-compliance: Where there is evidence of non-compliance with any regulatory or industry requirement, the advisor has **90 days** to become compliant. If an advisor remains non-compliant after 90 days, their contract will be terminated.

CANADA ANTI-SPAM LEGISLATION (CASL) UPDATE

On June 7, 2017 a news release from Innovation, Science and Economic Development Canada announced the Government of Canada is suspending the implementation of certain lawsuit provisions in CASL legislation. The legislation is being reviewed to support a balanced approach that protects the interests of consumers while eliminating any unintended consequences for businesses/organizations that have legitimate reasons for communicating electronically with Canadians. For additional information:

https://www.canada.ca/en/innovation-science-economic-development/news/2017/06/government_of_canadasuspendslawsuitprovisionsanti-spamlegislati.html

July 1, 2017 was the date for full implementation of the last of the CASL legislated requirements. There are three general requirements for sending commercial electronic messages (CEM) to an electronic address (i.e. e-mail, texts, etc.). You need:

- (1) consent,
- (2) identification information, and
- (3) an unsubscribe mechanism.

CASL Express consent forms are available to contracted advisors in the documents library of the Global Pacific website.

COMPLIANCE REGIME UPDATES AML

Based on new AML Updates, a memorandum regarding revisions is currently underway to Appendix D of the personalized compliance regimes. If you have one of these regimes, please watch for the updated / replacement pages and instructions on how to implement into your Compliance Regime.

FINTRAC Risk-Based approach workbook has been added to the Documents Library on the Global website to assist you in completing the Self-Review and Risk Matrix in your Compliance Regime. Additional information on the workbook can be located at:

<http://www.fintrac-canafe.gc.ca/publications/rba/rba-li-eng.asp>

Compliance Templates and Training Programs

AML and privacy compliance program training and templates are available at the Global Pacific website.

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