

Compliance Update

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FALL/WINTER 2018

RECORDING REASONABLE MEASURES -

2018 July

There are numerous provisions in the Regulations that require regulated entities to take “reasonable measures” to perform certain actions or obtain certain information. Examples of these reasonable measure requirements include making third-party determinations, completing all information required on reporting forms, and making PEP Related Person determinations. As per FINTRAC’s regulations effective July 2018, the guidelines provide that if the reasonable measures taken are unsuccessful, I must keep a record that sets out the measures taken and why they were unsuccessful.

LICENSE JURISDICTION DISCLOSURE TO CLIENT - 2018 July

Effective July 2018 advisors are to disclose to the client all provincial jurisdictions where licensed. It is recommended to incorporated advisors that you be consistent in each province you are licensed and incorporate your license in all.

REASON WHY COMMUNICATION (RWC) TO CLIENT - 2018 July

The RWC became a requirement effective July 1, 2018. The RWC is to provide clients with documentation to review the product purchased and reaffirm product suitability. The communication helps clients understand what they purchased, why they made the purchase, and how the products objective is intended to meet their needs.

DISCLOSURE STATEMENTS

Global has an updated Disclosure Statements form for ease of doing business so that all required advisor disclosures are covered on one form. The new form replaces several forms so less client signatures are required. In practice, your client will indicate receipt of all disclosures on either the ‘Know Your Client’ (KYC) and/or applicable ‘Needs Analysis’ forms. In situations when the advisor does not use a KYC nor Needs Analysis, the client will still be given the Disclosure Statements form, and initial their receipt on the form called ‘Acknowledgement of Receipt’.

ANNUAL ATTESTATION OF COMPLIANCE OBLIGATIONS

An advisor attestation form is being introduced for advisors to declare annually to meeting their compliance obligations. The form is called, ‘Annual Attestation of Compliance Obligations’ and must be signed and sent to Global via email to contracting@globalpacific.com in the month of May to coincide with your annual BC License renewal.

NEW COMPLIANCE REGIME 2ND EDITION SEPTEMBER 2018 FOR GLOBAL SUBSCRIBERS

For advisors who subscribe to Global’s assistance with compliance documentation, a 2nd edition of your Compliance Manual is ready for your adoption. Regulatory changes have been enhanced.

CAILBA INDUSTRY UPDATE 2018 – PROPOSED CHANGES

Anti-Money Laundering and Anti-Terrorist Financing Draft Revisions to Regulations

The Department of Finance has published draft amendments to regulations under the Act. Note that the amendments will require ongoing analysis. We will keep you apprised as we attempt to determine the impact of other proposed changes. The proposed changes are far-reaching, with many aimed at addressing deficiencies identified by FATF in its 2015-2016 peer review of Canada's AML-ATF efforts.

What follows is a brief synopsis of some proposed amendments that will affect advisors and insurers.

- **Changing the deadline** from 30 days to 3 days to file a Suspicious Transaction Report once the entity has reasonable grounds to suspect the transaction.
- **Allow reporting entities** to rely on customer ID verification performed by other entities as long as the advisor (reporting entity) can request and obtain information on the method of ID verification within 3 days of the request.
- **Insurers will be required to keep records**, report and do customer due diligence when issuing mortgages and other loans against the value of a life insurance policy.
- **Documents used to establish proof** of a corporate client's existence can be no more than one year old for the certificate of corporate status and "most recent" for other permissible documents such as annual audited financial statements to "ensure that corporations exist at the time they open an account or conduct a financial transaction."
- **Advisors (reporting entity) must take steps** to confirm the accuracy of new or updated beneficial ownership information.



- **Exemptions from the requirement** to conduct customer due diligence for certain low-risk customers (e.g. large companies listed on the Toronto Stock Exchange) subject to certain conditions. All other requirements would apply, including record keeping, ongoing monitoring and reporting.

- **Repealing the requirement** to maintain a "reasonable measures record" for unsuccessful attempts to obtain required information, based on stakeholder feedback about the burden this requirement imposes.

- **Removing the prohibition** on scanned or photocopied customer ID documents as long as such documents are "authentic, valid and current."

- **Clarifying the risk assessment** requirements so that the assessment of products and their delivery channels are included in an assessment of the risks associated with the use of new technologies prior to their launch."

• Cash Transactions

- o Multiple cash transactions performed by an individual within a 24-hour period will be treated as a single transaction for reporting purposes when they total \$10,000 or more. Currently, the rule only applies to multiple single transactions of less than \$10,000. Only one report should be submitted to capture all transactions within a 24-hour period that collectively meet or surpass this threshold.
- o The 24-hour rule will also apply to beneficiaries of multiple cash transactions (where deposits or transfers of money are received by the same person and the aggregate amount over a 24-hour period is \$10,000 or more).
- o Any cash transactions that any reporting entity, regardless of its corporate structure, receives in the aggregate amount of \$10,000 or more, must be reported.

- **Reporting entities must take** "reasonable measures" to determine the sources of a politically exposed person's wealth, and to assess whether the information is reasonable and consistent with the information provided before the "reporting entity proceeds with the relationship or permits transactions to occur."

- **Requiring advisors and** life insurance companies to keep an information record on annuities and life insurance not only when they are to receive \$10,000 or more over the duration of the annuity or policy but also when they will "remit an amount of \$10,000 or more to a beneficiary over the duration of the annuity or policy."

- **Current regulations** only require that reporting entities send a wire transfer to document information about the transaction. New rules would require

reporting entities that are intermediaries in a transaction or that send or receive a wire transfer to identify the client, keep records of, and include information about the transaction to ensure information remains with the wire transfer throughout the payment chain and that reporting entities have all of the relevant transaction information to detect and report suspicious transactions.

- The eight schedules to the Regulations set out the types of information that reporting entities have to provide to FINTRAC. These schedules reflect current practices and requirements (e.g. online identifiers and email addresses).



NEW TOPICS ADDRESSED BY THE DRAFT AMENDMENTS:

Virtual currency

Persons and entities “dealing in virtual currency”

including virtual currency exchange services and value transfer services including money services businesses (MSBs), would be required to implement a full compliance program and register with FINTRAC. In addition, all reporting entities that receive \$10,000 or more in virtual currency would have record-keeping and reporting obligations. Record-keeping obligations apply to life insurance when virtual currency is paid or received.

Foreign Money Services Businesses (MSBs)

Foreign businesses that offer foreign exchange dealing, money transferring and/or cashing or selling money orders, traveller’s cheques or anything similar to people located in Canada but that do not have a place of business in Canada, (such as those offering such services through the Internet), would become subject to the same sections of the Act and its regulations as domestic MSBs already are. Requirements would include registering with FINTRAC, customer due diligence, making a report, and keeping records. An amendment allows revocation of a foreign MSB’s registration to do business in Canada for failure to pay any AMPs. “Financial entities would be prohibited from opening or maintaining an account for, or having a correspondent banking relationship with, an unregistered foreign MSB.”

See <http://www.gazette.gc.ca/rp-pr/p1/2018/2018-0609/html/reg1-eng.html>

What’s New with CCIR and CISRO

Segregated Funds Disclosure

On June 14, CCIR released its final version of the proposed minimum required content for and a

prototype of a client account statement, which lay out the minimum content. CCIR points out that the prototype is not a prescribed form for disclosures, but insurers must ensure that consumers are provided with all of the new information outlined. Insurers will be able to determine the layout and look as well as the language of their disclosure documents.

Fair Treatment of Consumers

In May, CCIR and CISRO issued joint guidance on the fair treatment of consumers, following Quebec and Ontario. CAILBA has commented on the guidance.

See <https://www.ccir-ccra.org/en/>

CISRO has solicited CAILBA’s input regarding the issues and concerns it feels should be considered in CISRO’s strategic plan for 2019-2022. In developing this plan, CISRO will consider the current insurance environment, projects currently underway and the priorities of its members.

What’s New in the Provinces

British Columbia

The province’s Ministry of Finance has released a consultation paper following its review of the Financial Institutions Act. Recommendations include:

- Disclosure requirements for referral payments to advisors.
- Create an insurer code of conduct for fair treatment of customers.
- Change the rebate cap to the lesser of 25% of FYC and 25% of first year premium.
- Requiring restricted licenses for all incidental sales of insurance; requiring insurers to oversee sales by restricted licensees and exempt sellers; and applying certain market conduct requirements to the sale of these products.
- Design legal framework for online insurance sales.
- Give credit unions ability to promote insurance on their websites.

- Making FICOM a Crown agency with rule-making authority and giving it discretion to depart from federal solvency standards to address “unique” BC risks.
- Allowing FICOM to provide information to the national insurance complaints database.

See http://www.fin.gov.bc.ca/pld/files/FIA_CUIA_Review_Paper.pdf

What's New with CLHIA

CLHIA announced at the end of May that it will make changes to its approach towards Guideline G19, Compensation Disclosure in Group Benefits and Group Retirement Services including:

- **Allowing advisors** to deliver the disclosure to the client.
- **A materiality threshold** for tracking and disclosing in-kind compensation.
- **Extending the implementation timeline** for group benefits to January 1, 2020. For group retirement services, disclosure for new contracts will be January 1, 2019.

Financial Abuse of Seniors

AMF has published an excellent summary of efforts being made by the CSA and provincial regulators to identify and deal with instances of elder abuse. This topic is no less important in the insurance industry and we will likely see much more activity on this front.

See <https://lautorite.qc.ca/en/general-public/media-centre/news/-fiche-dactualites/securities-regulatorsurge-canadians-to-watch-for-red-flags-of-financialabuse-of-older-canadians/>

Embedded Commissions

On June 21, CSA issued Staff Notice 81-330, which announced its policy decision on mutual fund embedded commissions, which require registrants to address conflicts of interest associated with embedded commissions and 3rd party compensation in the best interest of the client. The CSA will issue rule proposals for comment in September to prohibit:

- Deferred sales charges option, including low-load with upfront commissions; and
- payment of trailers to dealers who do not make a suitability determination.

CAILBA submitted comments to the CSA, in which it supported choice for consumers on how they pay fees, which should include embedded commissions.

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