

## Brace yourself for tougher client scrutiny

### New regulations aim to detect ill-gotten gains

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My claim to fame used to be that I never checked my luggage. Even if travelling for 10 days at a time, I could fit all I needed into one small overnight bag that fit in the overhead bins.

But those days are gone because of new airport security. In the last few years, passing through security at the airport has changed dramatically, in an effort to detect potential money launderers and terrorists.

High-tech scanning machines and numerous uniformed staff members manually check my carry-on luggage for dangerous items. If your impression, like mine, is that this is a complicated and arduous procedure, wait until you see what your new Know Your Client (KYC) obligations will be after regulations are passed pursuant to Bill C-25. The bill received royal assent on Dec. 14 to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.



CREDIT: Andrew Barr, National Post  
(See hardcopy for Illustration)

Until now, the mandated format of the KYC form, attached as schedules to the IDA Regulations and MFDA Policies, has been very basic and unchanged by the regulators for several years. For the most part, the regulators have left it to the IDA and MFDA members to amend their forms as they deem appropriate, which of course are audited by the regulators on a regular basis.

Most firms have been forced to create a much longer form, sufficient to wallpaper a small room or cover a small table. Advisors complain that the form is too long and requires too much of their time to complete. All I can say is, with the passing of Bill C-25-- brace yourself!

The Anti-Money Laundering Act in its pre-amended form required advisors to report suspicious transactions. The new act will compel firms to also report "attempted" suspicious transactions.

The most significant change will be that advisors must screen every new client to determine whether the account could be held by a "politically exposed foreign person" (PEFP). One can only wince when imagining the vast and intrusive list of questions advisors will need to ask new clients to determine whether they, or any family members, are position-holders in a foreign government, political party, military, judiciary or state-owned company.

While those at airport security are government employees, advisors work for private enterprise in the professional services industry. However, under this regime, advisors and dealers will be required to police their own clients.

While there was an obligation to report terrorists or those laundering money before the

amendment, now the requirement will be much more specific and a higher standard will no doubt be imposed. Furthermore, the social debate of racial profiling, often used in the airport screening context, also rears its ugly head.

Does an advisor treat a new client who is a visible minority as a suspect PEP and report the client to senior management for further investigation and reporting to Financial Transactions Reports Analysis Centre of Canada (FINTRAC)? How many carefully worded questions would it take an advisor to unearth the fact that a new client is related, albeit distantly, to a politician in France?

My brother complains he is given a hard time when he passes through airport security because of his dark skin. Will he also be given a hard time when he opens a brokerage account?

The anticipated corresponding regulations have yet to be passed, but they will inevitably contain many broadened duties to compel advisors to know exactly who their client is and what the account's intended use may be. While one can only speculate as to what the new regulations will require of advisors, all indications from FINTRAC are that reporting obligations, record-keeping duties and corresponding fines or penalties for non-compliance will be greatly broadened.

It seems apparent that methods to confirm a new client's identity will be restricted even further, and reporting timelines will be significantly shorter. Industry sources have expressed concerns that such heightened obligations will result in financial institutions limiting the services they offer.

While the forthcoming regulatory amendments will greatly alter what an advisor must do to reasonably "know" that their new client is not engaged in terrorist financing or money-laundering activities, Bill C-25 sheds some light on the high expectations the government holds for the financial industry's participation in the prevention of such activities. The result will surely be the narrowing of services offered, increases in customer service fees, longer screening wait times for new clients and endless debate over screen-profiling practices.

Doesn't this sound even worse than passing through airport security? I will let you know after I ask my brother.

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