KYC IN ONE FORM OR ANOTHER

Advisors may think they have the KYC system down pat but critical requirements are still too often overlooked. By Ellen J. Bessner

Yes, I know you've heard all you'd like to hear (and then some) about know your client (KYC) forms, but there is one IDA and MFDA requirement that advisors sometimes overlook. Both IDA and MFDA regulations seem to indicate that a KYC form be completed for every account opened.

Just so we're clear, if Joe Advisor opens two accounts for one client, say an RRSP and RESP, presumably he must complete a separate KYC for each of the new accounts. The wording of the IDA (Regulation 1300.1 (a) and MFDA Rule 2.2.1(a) are almost identical: Each member shall use due diligence to learn the essential facts relative to each client and to each order or account accepted.

One might argue that this provision does not require a separate KYC for every account opened, but in certain circumstances others, including the regulators, may disagree.

This is a rude awakening for some advisors, particularly on the MFDA side, who are just growing accustomed to enforcement in this highly regulated industry. It may be that the KYC forms happen to be identical. But if you don't ask the client his or her specific objectives in relation to each account, you will never know, and therefore, you won't have the evidence of having made these inquiries, which could lead to problems. I am certain you don't want that to happen, as each violation may be the subject of an MFDA or IDA Bulletin that will remain on the Web site for several years.

Why is such a rule in place? Clients may have different goals for different types of accounts and a separate KYC form will discipline both clients and advisors to examine this possibility.

Perhaps, being the eternal optimist that I am, the extra obligation of completing a separate KYC form for each account can protect advisors, branch managers and supervisors from clients who complain they never expected to have RSP money treated the same way as RESP or unregistered money.

There is, however, a problem that all advisors, branch managers and supervisors should be aware of. Before they sign each KYC form—and it really should go without saying—they must review it carefully. Of course, this does not always happen.

If the client already has an account with the firm it would be prudent to pull the existing KYC form and review the two forms together. The client information should be reviewed in detail to determine whether the personal information is consistent in both forms, and if not, inquiries should be made to understand the inconsistencies.

Examine information as basic as the client's address. For example, a well-intended but ill-informed advisor may open an account for an existing client in which the address on the form is different from the client's actual address. Transfers may be made from one account to the other without much serious consideration. However, if the losses are transferred to the account and the statements fail to reach the client, the losses may not be detected by the client until it's too late.

Also verify that the client's personal information is consistent on both KYC forms to ensure that any updates are recorded. The objectives on the form should also be reviewed to ensure the overall plan is logical.

These are merely my own humble suggestions to protect yourself as advisors, branch managers, supervisors and your firm. Whether you think it makes sense or not, the MFDA and IDA rules indicate if you have more than one account you must prepare the KYC forms to reflect the objectives for each account. If you don't want to follow the rules, you will risk losing your licence, your livelihood, and most importantly, your and your firm's reputation. AE

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