

Model Requires Better Suitability

Client relationship model will become best practice

MARK NOBLE AND BRYAN BORZYKOWSKI

Having a comprehensive, “know your client” process is a best practice for the majority of advisors, but the Investment Dealers Association’s (IDA) proposed client relationship model (CRM) is going to make this an enforceable rule.

Paul Bourque, senior vice-president of member regulation for the IDA, says the CRM has derived its core concepts from the Ontario Securities Commission’s controversial 2004 fair-dealing model.

“I think we have stuck with the core concepts of the fair-dealing model. Those core concepts were to improve transparency by making conflicts of interest, account

costs and performance of investments clearer, and to provide a harmonized solution, so whatever proposal went out, it would be the same across Canada,” Bourque says.

The IDA has approved CRM and has sent the new rules for review by the Canadian Securities Administrators and for public comment.

Probably the most drastic change will be the requirement to reexamine investment plans during so-called trigger events. Bourque says trigger events could include things like divorce, a job change, or even caring for an elderly depen-

dent. He notes the onus will be on the client to inform the firm about the life-changing event. Once the firm is made aware of the trigger event, the firm will be required to conduct a suitability review.

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Bill Donegan, chief compliance officer at Worldsource Wealth Management, wants the IDA’s proposal to include a provision that says the dealer should be responsi-

ble only for material changes they are aware of. “The IDA is silent on that point,” he says.

A review would also be triggered when a new advisor takes over an existing client. Donegan says there’s a “practical issue here.” He explains that changes could occur when an advisor leaves a dealer or if a large number of accounts are transferred to another advisor. “In those circumstances,” he says, “there should be time permitted to allow for a review to occur. Our suggestion is the suitability review should occur prior to the first transaction after the change in advisor.”

The other major change being proposed is for account cost disclosure. The IDA wants to make it mandatory that member firms disclose to clients on an annual

basis the cost of securities they have purchased and the account activity of those securities.

Donegan doesn’t have an issue with this per se; it’s the way the IDA wants its dealers to reveal fee information he doesn’t like.

He says disclosure documents need to be signed by the client every time there is a change, which could be difficult considering how often fee structures change. “The best way to make reference to fees is by a dealer fee schedule,” he says, “a separate document that could change over time without having to have a new disclosure made and acknowledgment required every time fees change.”

While most advisors and their firms already tend to have many of the CRM’s proposals already

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in place as best practices, advisor advocacy groups argue that the compliance costs will be too onerous.

“Generally, we are always in favour of streamlining of transparency for consumers. What is of concern to us, though, is increasing the regulatory burden, particularly for [advisors] who work with

consumers with smaller accounts,” says Susan Allenmang, head of regulatory affairs of Independent Financial Brokers of Canada.

“There is a cost-benefit analysis that has to be done when working with consumers with smaller accounts. Making it more expensive to work with them pushes them out of the market and

denies them personalized financial advice.”

Peter Tzanetakis, senior director of regulatory affairs for Advocis, believes if the IDA mandates rules already practised by the majority of firms, then it actually creates a lower benchmark of conduct for advisors to adhere to.

“When a regulator wants to put parameters around practices that are already well-formed, it is sort of limiting what the advisor can

do. In fact, it can create a lower standard, not a higher standard,” he says. “Given the already significant degree of sort of prescriptive regulation found in securities acts and the current IDA rulebook, we believe that a principles-based approach to regulation really needs to be considered at this time.”

Tzanetakis says his organization would rather see regulators focus more on enforcement that stamps out fraudulent activity.

“We believe that most investor complaints concern misappropriation of client funds and fraud, so we believe that regulators should have the necessary recourse to investigate complaints with significant enforcement powers,” he says.

“[Instead,] we see greater emphasis on developing rules that create a greater burden for compliant advisors, which is not really in the public’s interest.”

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