



THE PRACTITIONER'S VIEW

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MONEY LAUNDERING & YOU

Just what does Bill C-22 ("Act") mean to accountants and lawyers? What are the specifics of the Act? What do I have to report? When do I have to report? What are the penalties if I don't report? These are questions that you need to answer to ensure you are on-side with the Act.

To provide some guidance on the topic, this month's issue of Practitioner's View provides useful articles by Mary Jane Andrews and Lisa Taylor, KPMG LLP and Chris Walker, ABCsolutions, inc.

Accountants, whether CA, CMA or CGA designation, have been named in the Act and the Regulations with specific requirements to comply with Part One of the Act when it comes to engaging in any of the following activities on behalf of a client:

- Receive or pay funds;
- Purchase or sell securities, real properties, or business assets or entities; and
- Transfer any funds or securities.

These compliance requirements also apply when an accountant *gives instructions* on behalf of a client on the above activities **or** when they *receive professional fees* for such activities or instructions. However, this does not apply to the practice of auditing.

Accountants are required to report suspicious and large cash transactions involving amounts of \$10,000 or more, when engaged in certain transactions on behalf of a client or when giving instructions in respect of those transactions. Penalties for non-compliance are significant. Failure to comply can lead to criminal charges as well as fines up to \$2 million.

All accounting professionals should be aware of the potential for money laundering activities when accepting new engagements and performing engagements for existing clients. Any association with clients who are involved in money laundering activities could have serious ramifications for the accounting firm/accountant, including:

- an increased risk of misstatement in the financial statements;
- an increased risk of other forms of fraud; and

- a detrimental effect on the reputation of the practice and its individual partners, including potential adverse legal consequences.

In addition, accountants should be aware of the potential impact for their clients. The Act pierces the corporate veil through its "vicarious liability" provision, which allows company directors to be charged for failing to ensure that the appropriate due diligence is in place through a well planned and delivered training program for staff.

The measures in the Act help detect and deter organized criminal activities in Canada and help ensure Canada is not used to facilitate money laundering. No business is safe from attempts to launder money – banks, insurance companies, law firms and accounting firms can inadvertently be involved. You need to ensure you understand and comply with the Act. Don't get caught helping criminals make dirty money clean.

See the enclosed booklet for an in-depth article on the impact of money laundering and how to identify and mitigate risk. Questions are welcomed and will be addressed in the next issue of Practitioner's View.

BEING HELD ACCOUNTABLE FOR YOUR COMPLIANCE: BILL C-22 AND THE ACCOUNTANT - *Chris Walker, M. Criminology*

On May 17, 2001 the federal Department of Finance closed consultations on the initial ninety-day publication period for the Regulations that support Bill C-22, Canada's new Proceeds of Crime (Money Laundering) Act. After a thorough review of the various commentaries submitted during that period, agreed to changes will be made and the then revised Regulations will be published in the Canada Gazette for a final thirty-days prior to being declared in-force. At that point, various reporting and record keeping requirements under the legislation will begin and the required **Compliance Regime**, for the most part, will have to be in place.

Getting Prepared is Everything

Meeting the legislative and regulatory compliance requirements will be essential once reporting begins later this year. However, some accountants point out that their current practice involves none of the designated activities. That being the case, do they need to concern themselves with compliance? The answer is yes when it comes to the regulatory requirement of putting in place a compliance regime. In other words, being compliant and having a compliance regime are two separate issues. Put another way, you must be ready to report even if you don't have anything to report yet.

Consequently, every accounting firm must have in place a compliance regime as designated under Section 71 of the *Regulations*. What does that entail?

The Four Elements of a Compliance Regime

The **first step** is to ensure accountability for Bill C-22 within the firm. This means someone in senior management, an owner/partner or member of the management committee, must be designated as **compliance officer**. That individual will be responsible for seeing to it that the compliance regime is put into place and subsequently maintained.

Step two requires that all necessary policies and supporting procedures be developed and adopted by senior management. These policies must reflect all those sections in both the *Act* and its *Regulations*, which apply to the firm. In the case of accountants, this involves the various transactions, and reporting and record keeping requirements set out in Section One of the legislation. The key in writing such policy is that it reflects the nature and extent of business services provided by the firm. In other words, policies need to be specific to each accountant's business.

Each policy will require its supporting procedures that describe staff activities and responsibilities. These need to be clear and can serve as benchmarks against which the require level of quality control can be measured.

Step three requires that all staff, regardless of position and who have some direct or indirect role in financial transactions with clients, undergo a training program. That training must address: a basic understanding of money laundering and its impact on accountants and their clients; all applicable sections of the legislation and the corresponding liabilities; and the various policies and procedures put in place to meet those responsibilities. This training is best developed into a structured format with electronic and/or hard copy available for ongoing review. In addition, all training for new staff must take place prior to their taking up their responsibilities.

It is also important to recognize that Bill C-22 is what we refer to as "dynamic legislation" and as such the various *Regulatory* powers and requirements can, and will change regularly. This will require each compliance regime to have in place a system for monitoring the legislation and subsequently informing staff of all changes. Where appropriate policies will need to be added or re-written along with any subsequent changes to the supporting procedures.

Finally, **step four** requires that a structured **compliance review system** be put in place to monitor the ongoing accuracy and applicability of the firm's compliance regime. This will have to become a scheduled activity and requires written reports be prepared outlining the results of the review along with any steps to rectify identified limitations. These reviews can be assigned to the firm's internal audit group or handed over to an external source competent to undertake such an activity.

The Penalties for Failing to be Compliant Can be Severe

Bill C-22 is criminal legislation and as such carries with it a range of penalties for failing to meet the government's compliance requirements. Prison terms of up to five years and fines in the range of \$2 million per offence are possible. Officials from FinTRAC recognize that becoming compliant is time consuming and they have opted to be as helpful as they can when it comes to advising organizations on their responsibilities under the *Act*. However, this does not imply that they will do the job of preparing for you. That responsibility rests with each firm and regardless of how much reporting you will have to undertake beginning later this year, each accountant will have to put in place a compliance regime that meets the standards outlined by the legislation's regulatory regime.

*[Chris Walker is president of ABCsolutions, inc., a Canadian firm solely dedicated to assisting businesses and professionals to become and maintain their compliance with Bill C-22. Through the company's website www.moneylaundering.ca and its subscriber accessed **On-Line Education Centre** businesses are able to find a user friendly resource that can readily assist in putting a compliance regime into place. ABCsolutions are currently offering ICANS members the opportunity to subscribe to this resource at a considerable savings per year. Contact them directly at info@antimoneylaunderingsolutions.com for a listing of those savings.]*

HOW TO SELECT A-LEVEL CLIENTS

How do you choose among potential clients and how do you know when it's best to let go of a client that abuses your firm's resources? Sam Allred, CPA and founder of the Upstream Academy, a technology consulting practice, shares insights that can help your firm make the right decisions.

Much has been written and spoken regarding the wisdom in selecting quality clients to work with and also firing those clients who are habitual abusers of your firm's resources.

There are few things that will help you to be more successful in your business than choosing the right clients.

The consulting team in our firm discussed the differences in working with our various clients. It became obvious to us that our best clients shared common characteristics, while our challenging clients also shared common characteristics. As a group, we identified the following ten characteristics that all "A-Level" clients shared:

- The ability to attract and retain quality people
- An attitude of teamwork and commitment
- A strong upper management team
- High commitment to technology

- Belief in a thorough planning process for change
- Recognize and pay for quality services
- Reasonable expectations
- Willing to take advice (teachable)
- Investment vs. Expense approach to technology
- Good profitability and a strong position in industry

After creating the list of characteristics of companies we wanted as clients, we made the decision as a group to position ourselves to land this type of client. We also agreed as a group that we would turn down work from prospective clients who did not possess these 10 characteristics. We begin to rethink how we were currently pursuing each consulting engagement and over a short period of time, developed a five-phase methodology to increase the quality and success of each consulting engagement.

Saying "no" to prospective clients proved to be a difficult thing to do. At the time, I was responsible for virtually all sales and marketing activities for our consulting group. I found that one of the most difficult things to do for me was to say "no" to someone who was ready to write a check for the software and wanted to retain our services.

In order to affect the necessary change within our group, we implemented a client screening process that became mandatory for all IT staff to follow. We designed a two page client screening form and included the necessary questions that would disclose whether a client had the characteristics we had identified. It became mandatory that a new client could not be retained until the entire form had been completed and approved by a shareholder in the firm. This process kept us from taking on a new client simply because the opportunity was there to do so.

We also explored ways to identify much sooner with new prospects whether they possessed the desired characteristics of an A-Level client. We found it was much easier to part ways with a prospect when we had not invested significant time pursuing them as a prospective client. It seemed the more time we invested in pursuing them, the harder it became to send them down the road in pursuit of another solution.

Several significant things came from making the decision as a group to only choose better clients. First and foremost, our profits rose substantially. Our process in implementing solutions for clients improved tremendously because we were much more focused on giving quality service to quality clients. We came to learn that the only clients for whom you can provide A-Level service for any length of time are A-Level clients. We also found that our quality of life substantially improved, as these new clients were so much more capable of helping us have successful consulting engagements.

Perhaps most surprising to me personally was that it became so easy to say no to a "C or D-Level" prospect. My line of reasoning became:

1. The technology consulting market is booming and there are opportunities everywhere,
2. We need to manage our risk by taking on good engagements,
3. Capacity is and will remain a challenge, and
4. Saying "no" to the wrong opportunity leaves us in a position to say "yes" when the right opportunity comes along.

CONCLUSION

One way to substantially reduce the risk and challenges associated with technology consulting is to avoid problem clients. Regardless of the size of your organization, there should be some form of client screening process to ensure that only those clients who will enhance your reputation and profitability are accepted. You need to also keep in mind that the characteristics of A-Level clients may differ from department to department within your firm. For example, an A-Level audit client may be a D-Level consulting client. Each business unit within your firm should be responsible for creating their own client screening process.

Thanks to Peter Budreski for advising of the AccountingWEB (www.accountingweb.com), the source of this article.

THE NEED FOR BALANCE

As another busy season draws to a close, it may be an appropriate time to reflect on a hot topic – stress and the need for balance. Michelle McRae, the Editor of ICABC News 'N Views addressed this topic in the May 2001 issue. The following is a condensed version of that article.

In the past few years, the concept of "balanced living" has had a serious impact on the business world. Provoked in part by the increasingly clear link between stress and illness over the past decade, more and more people are seeking balance in their lives – to reduce their stress levels, to make more time for their families, to give their lives greater meaning. It's not just those later in their careers who are now seeking balance between their personal and professional lives – many people just starting out are making it a priority from the outset.

What does this mean for CA firms? In a tight job market such as the CA profession, firms have to sit up and take notice if they want to attract and retain employees.

Who wants balance?

Executive search consultants are seeing more and more people who are thinking explicitly about balance with regard

to their careers: from those just starting out, to those in their forties or fifties (many of whom are saying "I just don't want to do this anymore".)

As more people accept the reality of having multiple careers/jobs in their lifetimes, they're making certain that each one offers some kind of substantial benefit. People are no longer willing to defer benefits to some point far down the road, since by that time they could be following a different road entirely.

Professional companies may have a harder time facilitating balance than those in industry because they've traditionally demonstrated a greater emphasis on "time and value in exchange for revenue". However, CA's have a distinct advantage over workers in many other professional industries because the job market is so tight.

Recruitment and retention

An extensive survey revealed that retention of existing employees was more important than recruitment, in large part because of greater overall cost.

Results indicate that financial measures are not enough to improve retention. Companies need to offer other opportunities, such as flexible work schedules, job-sharing, skills development, and inclusion in company decision-making.

Absenteeism and burnout

Avoiding such issues can also result in much higher rates of preventable absenteeism and burnout, both of which can have a big impact on the bottom line.

A recent Canadian survey revealed that the flexibility afforded by technology has made it harder for people to stop working. From accepting faxes and business calls at home, to checking email and voice-mail after hours, to keeping cell phones on at all times, many people are seeing the boundaries between their work and leisure disappear. In response to such issues, many CA firms are coming up with alternatives for their employees.

To improve retention and recruitment rates, firms are now providing flexible, individualized working arrangements for both male and female staff members, enabling them to advance while working part-time or flexible hours, on a reduced workload, or even taking special leaves of absence. Other initiatives include workshops, mentoring and leadership programs, as well as using upward feedback to let junior staff give management their input on a variety of issues, including work/life programs.

The issue of balance is enormous in scope. As part of its fall PD line-up, the Institute is offering a new half-day workshop titled "Stress and the Practicing Accountant", led by Mort Shapiro. Definitely worth considering!

PRACTICE ADVISORY CORNER

Query

"We audit a local not-for-profit. A staff member (finalist, never been involved with the job) has been asked to be treasurer next year and has accepted. The client wants us to continue as auditor, but I am uncomfortable with it. There is no question we could and would do the audit without the involvement of the staff member/treasurer, but I am still not sure that is enough. What do you think?"

Response

Council Interpretation CI 204/3 refers to an employee "assigned" to the engagement. In your situation, the employee is not involved in the engagement so there is no specific breach of Rule 204 regarding objectivity.

However, the relationship should also be considered from the viewpoint of a reasonable observer, in other words, "perceived objectivity". This often poses a greater challenge to members who will ultimately have to make a judgment call to ensure compliance with spirit and intent. If members are still uncertain after reviewing related Rules and Interpretations, they are encouraged to contact the Institute for further discussion.

Often, when practitioners call with a question, two particular publications are referred to for guidance. *Model Financial Statements (General Purpose)* and *Not-for-profit Financial Reporting Guide*, both published by the CICA, are useful references for sample note disclosure and financial statement presentation. Also available are *Model Financial Statements for the Real Estate Industry, Not For profit Organizations* as well as *Future-oriented and Proforma Financial Information*.

These may be ordered through the CICA at www.cica.ca/order.

NEW EXPOSURE DRAFT – GAAP

The Accounting Standards Board has just released the Exposure Draft (ED), Generally Accepted Accounting Principles. The ED addresses various concerns, including the relative status and authority of Accounting Recommendations, Accounting Guidelines, Emerging Issues Committee Abstracts of Issues Discussed and some other recent publications, and the role of practice, as well as the importance of non-italicized paragraphs. It includes explanatory paragraphs to help a reader understand where to look for guidance, especially when the CICA Handbook – Accounting is silent.

This ED can be obtained from <http://www.AcSBCanada.org/cica/cicawebsite.nsf/public/EDOEDAccountingStandards>.

SUGGESTIONS FOR THE NEXT ISSUE?

Contact **Wenda Bennett, CA** at the Institute wbennett@icans.ns.ca or (902) 425-3291.