

Legal update

Time to update your subscription agreements? CRS implementation and new AML client identification guidelines

June 2017

Asset and wealth management

Fund managers will want to consider whether they should update their fund subscription agreements in light of the pending implementation of the Common Reporting Standard (CRS) and new anti-money laundering (AML) client identification rules.

CRS

CRS is a new international standard for the automatic exchange of financial account information between tax administrations to use in fighting tax evasion and to promote voluntary compliance with tax laws.

The Department of Finance has proposed that CRS take effect in Canada starting on July 1, 2017. As of that date, funds will be required to have procedures in place to identify accounts held by non-residents and to report the required information to the Canada Revenue Agency.

Most managers have in recent years added self-certification forms to their fund subscription agreements in order to determine whether a subscriber is a tax resident of the US for purposes of the Foreign Account Tax Compliance Act (FATCA). With the adoption of CRS, those self-certification forms will need to be expanded in order to capture whether a subscriber is a tax resident of any jurisdiction other than Canada.

AML

In June 2016 the Government of Canada updated the approved methods to ascertain the identity of clients for AML purposes. There was, however, a transition period of one year (from June 30, 2016, to June 30, 2017) during which time managers could use either the previous or the updated methods. As of June 30, 2017, only the new methods will be permitted to be used.

Where a manager is acting as the exempt market dealer with respect to the subscription by an investor of units of a fund, the client identification provisions in the fund's subscription agreement will need to be updated as of June 30, 2017, to reflect the new client identification methods.

We would be pleased to help should you require assistance updating your subscription agreements in light of the above requirements.

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