

BDWEEK

Regulatory news and compliance best practices.

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February 5, 2007

New product development: Get involved early, don't forget to update policies

Friedman, Billings and Ramsey & Co., Inc.'s missteps when participating in its first PIPE offering (*BD Week*, Jan. 1, 2007) are a recent example of what not to do from a compliance perspective when a firm is considering a new product or service. The FBR scenario amounted to a near perfect storm of compliance issues—a failure to implement procedures tied to a new service and a lapse in supervision of the sales force.

Regulators have continually cautioned firms that a review of compliance policies and procedures should be undertaken whenever a new service is added or a new product developed. As a compliance officer, getting yourself involved in the process from inception is critical.

Amy Lynch, president of **Frontline Compliance, LLC**, offers a best practice outline for firms considering a new product or service:

√ First, is the product actually a new product? There may not be a material difference but that can still trigger additional disclosures.

√ Second, if it is a new product, then a review of current procedures should be done to determine where it can be incorporated and what needs to change.

√ Third, communication and training for the sales staff is important in ensuring that the changes

to the current procedures are adhered to on the ground.

Of course, best practices are good rules to live by, but what happens in the real world when black and white blends to grey? Knowing where common pitfalls lie can help shed some light on the shadows.

The Tone at the Top

“The compliance officer should be brought in very early in the process,” says Lynch because they can help determine the regulatory implications to any change the firm may make. Generally, most large firms convene committees, comprised of business, compliance and general counsel personnel when exploring a new product or service. However, firms can get tripped up when a new product or service might appear to be a derivative and make a decision not to include a compliance representative in early discussions.

An inconsistent approach might become an expensive mistake down the line when a lot of time has been invested only to find that the proposed service triggers a compliance issue when compliance is finally brought in.

The Buzz at the Bottom

Smaller firms often have a different experience, with new products emerging from ambitious sales representatives, notes **Bill Alsover**, chairman of **Centennial Securities**. Whether the product comes at the request of a customer or by the desire of the sales rep, the result is the same; the compliance department is suddenly put into the position of putting out potential fires that could seriously burn the firm.

“That’s where the compliance officer has to get out amongst the sales people and realize what’s going on,” says Alsover. Compliance officers may get “information which is for broker use only but still is not everything... and certainly a salesman should not be in a position of approving a product for the firm,”

(Development, continued on page 2)

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adds Alsover.

John Easterling, chief compliance officer for **Frost Brokerage Services** in San Antonio, quotes his own adaptation of rule 405, know your customer. “Know your broker,” Easterling says, a skill that comes with experience but is helpful in observing red flags that can trigger increased supervision.

The Culture You Keep

Integrating compliance into new product explorations from the start and ensuring that there’s an ear to the ground amongst the sales staff are key strategies. Together, they represent the building blocks of a corporate culture where consistency becomes the proverbial ounce of prevention that negates the need for a cure.

Easterling has just that arrangement at Frost Brokerage. Though the firm hasn’t added a definitive new product recently, they haven’t had any problems with reps selling outside the approved list either. Compliance is reinforced regularly among the sales staff beginning with a new employees first day, throughout weekly sales meetings, quarterly newsletters and bi-annual all-staff meetings. ■

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