

## FAQ Corner with AUM LAW

### **Question: In light of the COVID-19 pandemic, what should we do with respect to our suitability determination and “know-your-client” (KYC) obligations?**

**Answer:** The pandemic is likely to be a life event for many individual clients, who might experience, among other things, a loss or significant decrease in employment or business income, a significant decrease in the value of their investments, and/or become seriously ill. This means that such clients’ know-your-client (KYC) information could need updating and that transactions, holdings and/or accounts might no longer be suitable for them.

Remember that, for accounts subject to the suitability determination requirements in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103), registrants must take reasonable steps to keep current the client’s KYC information. In addition, before making a recommendation, accepting a client’s instruction to buy or sell a security, or making a purchase or sale of a security for a managed account, the registrant must take reasonable steps to ensure that the purchase or sale of the security is suitable for the client.

The challenge, of course, is that a registrant may have hundreds or thousands of clients whose circumstances have changed, or are about to change, as the COVID-19 crisis continues to evolve. And the potential need to update KYC information is occurring while individual clients and registrants are coping with the dislocations caused by quarantine measures and the shift to work-from-home arrangements.

Given, however, the fundamental importance of the KYC and suitability requirements as investor protection mechanisms, we don’t expect securities regulators to take a lax approach to compliance in this area. Pandemic or not, registered firms should have policies and procedures for updating KYC information, including in situations like these where registrants might have reason to believe that clients’ circumstances have changed, or are about to change, significantly. We expect that in a compliance review or other inquiry, regulators will want to see documentation showing that a registered firm has:

- Effective policies and procedures for updating KYC;
- If necessary to accommodate the need to update KYC information on a wide scale and rapid basis, the firm has revised its procedures;
- Pursuant to those policies and procedures, reached a well-reasoned decision on how to communicate with clients whose KYC information might need updating now;
- Executed on the firm’s plan to update KYC as needed; and

- Revised the plan, if necessary, and executed the revised plan if the changing circumstances warrant it.

[AUM Law](#) can help you develop a plan for updating clients' KYC information in light of COVID-19. Please do not hesitate to contact us.

### **Practical Advice • Efficient Service • Fixed-Fee Plans**

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