



Is Your Automated System Defending You Like Iron Man, or Bound For the Scrap Heap?

Special Guests, Outlier Consultants, of Toronto Canada talk to you about that not-so-sexy topic every MSB must deal with... Compliance.



While compliance is never going to be a profit centre, when it's not handled well, it can become a cost centre in more ways than one.

If you're a very small business that only does a handful of transactions for friends and family, you may be able to operate with very little automation. For every other type of company (and for every tiny company with big growth plans), getting automation right can be a "make or break" decision. While there are many great things that are achieved by automation like streamlined customer experiences and accessible customer data for product optimization, I'm going to focus on something much less sexy – compliance.

While compliance is never going to be a profit centre, when it's not handled well, it can become a cost centre in more ways than one. We tend to think of the cost of compliance as the cost of getting it right (hiring a Compliance Officer, training our staff, identifying our customers, keeping records, etc.). These can be significant costs, although not nearly as costly as getting it wrong.

In Canada, money services businesses (like currency exchange and remittance businesses) account for 52% (by number of penalties) and 36% (by dollar volume) of all administrative monetary penalties (AMPs) levied by the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) since 2008¹ (see table next page). FINTRAC considers three factors when determining an AMP:

1. The harm caused by the violation(s);
2. The compliance history of the reporting entity; and
3. The non-punitive nature of an administrative monetary penalty.

While these penalties are intended to be "non-punitive," FINTRAC, in addition to levying AMPs against business found to be non-compliant, may publish the names of these businesses on its website. While it's hard to get clear data on the impact of publication on businesses, anecdotal evidence suggests that some of these MSBs have been forced to close their doors for good. This is because most MSBs need relationships with other financial institutions, like banks and payment processors, in order to operate. Few financial institutions are willing to do business with an MSB that has been subject to an AMP (and those that do, charge a premium, further eroding ever-thinning margins).

¹ <http://www.fintrac.gc.ca/pen/4-eng.asp>



Administrative monetary penalties imposed

Listed below are the total numbers of administrative monetary penalties that FINTRAC has imposed from December 30, 2008 to date.

Persons or entities subject to the PCMLTFA	Number of AMPs imposed to date	Total amount of AMPs imposed to date	Violation types
Casino	1	\$56,700	View
Credit unions / Caisses populaires	15	\$676,795	View
Money Services Businesses	35	\$794,015	View
Real Estate	10	\$95,340	View
Securities	6	\$601,660	View
Total	67	\$2,224,510	

Date Modified: 2016-01-07

By implementing the type of automated system that helps you meet, and track, your compliance obligations, you are setting yourself up to avoid potential headaches. But how do you know if a system is right for you? How do you decide if it's worth the investment... and can't you always change your mind later on?

Start Small, Think **BIG**

No matter the size of your company today, you need to be ready to grow. This issue is the same for multi-billion dollar companies, as well as small start-ups. When growth happens, it tends to happen quickly. When you combine rapid growth with manual processes and workarounds, it quickly becomes apparent why high-growth companies have less revenue per employee². So now, you're growing quickly and hiring more people to keep up with the things that your system doesn't do (or worse, doesn't do correctly). You could change your system, but integrating a completely new software system, at a time when everyone is already very busy, comes with its own challenges... That system that seemed "good enough for now" is getting more and more expensive every day.

To find the best product for you, start with looking for a system that meets your needs today, and will continue to meet them as you grow.

² <http://forty.co/inside-the-inc-5000-what-it-takes-to-be-a-high-growth-company>



Don't Believe the Hype. When it comes to laws and regulations, the devil is in the details...

and those details are written locally (usually at a country or province level). While just about anyone who speaks a language can read the law, this does not make you an expert... and in all my time in compliance, I've never met a "global compliance expert."³ From a practical perspective, this means that even if a solution is used around the world and has thousands of customers, it still may not be the right solution for you, or your business.

³ I have met a number of people foolish enough to make this claim; at least for the first five minutes or so of conversation. When challenged on how it is possible to keep abreast of the nuance of regulator expectations across multiple jurisdictions, these "experts" generally become red-faced and mumble something about paying someone to research this on an "as needed" basis or relying on local teams for detailed expertise.



To find out whether a service provider really understands your business and your requirements, you need to ask the right questions. This often means that you need to get past the salesperson, and speak to a true subject matter expert. In some cases, this may take asking more than once, but don't back down. When you set up the meeting with the subject matter expert, involve your Compliance Officer (and keep your Compliance Officer involved throughout the process).

Finally, ask if you can speak to a real customer in a country where you do business. While most companies aren't thrilled at the idea of talking to competitors about sales platforms or other revenue generating devices, compliance is a cost centre and compliance automation is not generally seen as being a competitive advantage. I have seen a Compliance Officer from a financial institution invite Compliance Officers from local competing institutions to come and sit with them for an hour and see how their software works. Of course, they signed a confidentiality agreement – but they were willing to share challenges and best practices. Don't underestimate the power of Compliance Officer solidarity.

Get Ready To Show-Off

In order to “pass” a regulatory examination, you must be able to explain to your examiner what your system is doing, and how the system is doing it. Your first opportunity to do this is in your Policies and Procedures, that you send to your examiner in advance. The second is the verbal explanations that you provide throughout the examination. It is not enough to know that the system is doing “something.” You need to understand (and document) what is happening and when.

Most software companies provide documentation to meet the level of understanding required; consider whether or not you clearly understand the documentation (and if not, whether there is someone that you can ask). The best process/procedure documentation does one thing: it describes what you are actually doing, how you are doing it, and when.

Then Show-Off a Little **More**

In regulatory examinations, it’s not enough to know something; you must always be prepared, and able, to prove it. The absence of definitive proof may be interpreted as a deficiency. Think about it from the perspective of, if you can’t prove it, it never happened.

During a number of recent FINTRAC examinations, the regulator has asked my MSB clients, to prepare (while the examiner is on site – which is usually only for one business day) a list of their “business relationships” and the evidence of monitoring those business relationships. While the lists are being pulled, the examiners have asked my clients to define a “business relationship” and explain how monitoring is conducted.

While this may sound like an exercise in multitasking and IT mastery, it has become relatively commonplace. This means that it has become increasingly important for automated systems to allow flexibility in terms of the types of reports that can be generated. These reports must also be available quickly (and preferably at low to no additional cost).

It is not enough to know that the system is doing “something.” You need to understand (and document) what is happening and when.



Decide to Fix or Scrap

Even with the most sophisticated systems, things don't always go as planned

Perhaps there was a misunderstanding about the requirements or technical specifications, or perhaps your business model has changed... No matter the cause, when compliance issues arise, you will be looking to resolve it as quickly as possible. Can your system grow with you? It can be difficult to determine how this will go until you're in the situation, but there are a few helpful questions that you can ask, before it's too late.

Are new regulations considered and implemented automatically? If not, how are changes based on regulatory requirements implemented? Is the system adaptable to new or updated processes? Are the costs associated with making changes? And if so, are they reasonable compared to your budget.

Keep Your Eye on the Prize

While compliance automation isn't going to be a revenue-generating machine, a good fit can significantly cut costs, in several important ways. Such as:

- Increased staff productivity,
- Decreased IT costs (long term),
- More time to focus on your growth, and
- Reduced regulatory risk.

Something that seems like a good deal in the short term, can be costly to fix later (and may expose you to unwanted regulatory risk, if it isn't a good fit for your business).

All the best from **Outlier**.

Outlier Solutions Inc. (Outlier) is a Canadian compliance consulting firm. As part of our commitment to our clients, we do not enter into paid referral arrangements, nor do we accept any form of payment for the promotion of services. When we recommend software or other services, we do so because we believe that it is a good fit for you and your business.

You can learn more about Outlier at www.outliercanada.com or contact us at info@outliercanada.com





nexolink

About Nexolink:

Nexolink is an FX payments industry leader with over 30 years of experience delivering FX business platform solutions and consulting services. Nexolink has provided business solutions and support, for organizations such as Amex FCS UK, Travelex Worldwide Money, UAExchange Canada, Citibank FCS NY, Currencies Direct and 360 Markets AUS., as well as others around the world. Our new industry thought-leadership initiative, entitled “FX Insights” will comprise a comprehensive collection of industry reports, articles, industry white papers and news and views tailored specifically for FX professionals. We are most pleased to share our global experiences, business practice advice, as well as field questions from leading FX professionals around the globe.



FXinsights