What Financial Advisors Need to Know about the Dodd-Frank Act

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Introduction

Compliance issues have long been a major challenge for financial advisors, involving huge commitments of time and money. But when President Obama signed the Dodd-Frank Act into law on July 21, 2010, financial services firms got 2,319 more reasons to worry.

"This is a tough law that will also have profound effects on the operations and cost structure of most financial services companies and financial markets," said Securities Industry and Financial Markets Association (SIFMA) President and CEO Tim Ryan in a statement on June 25.

In fact, the U.S. Chamber of Commerce reports that there are at least 350 new regulations and approximately 150 studies mandated in the 2,319-page reform bill. Jason Goldberg, an analyst with Barclays Capital, wrote, "The new law could translate into anywhere from an estimated 15,000-20,000 pages of new rules by which firms will have to manage in the future."

And those rules will absolutely have an impact on financial advisors. David Tittsworth, executive director of the Investment Advisor Association, said, "It seems likely that the legislation will result in a wide range of new regulations that could increase the complexity and burden of compliance for all advisory firms."

Adapting to Dodd-Frank

Implementing the reforms detailed in the Dodd-Frank Act will take years to accomplish. Many of the significant provisions have extended implementation periods and delayed effective dates, and financial regulators will be making rules for the next six to 18 months. For the foreseeable future, Dodd-Frank will not end regulatory uncertainty.

However, that doesn't mean that you can sit back and wait for the reforms to be finalized. There are many provisions that have already taken effect, and many more that you will be required to respond to over the next twelve months.

Because financial advisors will face greater compliance burdens, it will be those who proactively invest in technology to improve the efficiency of their compliance programs who will be in the best shape to adapt quickly to the rules and regulations that come out of the Dodd-Frank Act.

But according to an SEI Advisor Network survey, the majority of financial advisors (75%) are only "somewhat familiar" or "not familiar" with the contents and implications of the reform bill.

To help you get a better handle on the bill and how it will impact your business, this short overview highlights some of the most salient parts of the Dodd-Frank Act and explains how enterprise content management (ECM) technology can help reduce the complexity of complying with them.

What Is ECM?

Enterprise content management (ECM) software gives financial advisors the ability to simplify regulatory compliance, improve profitability and limit exposure to civil and criminal liability. It allows advisors to prepare for audits more easily and ensure compliance with multiple state, SEC and FINRA regulations—all while accelerating business processes and making staff more efficient.

A best-in-class ECM system includes:

- Imaging capabilities that enable your office to go paperless.
- Robust search functionality that quickly produces information on demand.
- Powerful security features that protect confidential client information.
- Comprehensive auditing and reporting capabilities that monitor all system activity.
- Records management automation that lowers the cost of compliance.
- Workflow functionality that enables you to simplify compliance by automating standard business processes.

ECM Can Help You Adapt

ECM software is particularly useful for advisors who want to adapt quickly and effectively to the Dodd-Frank Act. Here are the top four reasons why:

- **Instant document retrieval expedites audits.** With electronically stored documents, advisors can quickly and easily pull requested files and provide them to auditors by e-mail, CD or DVD. You can also minimize the time auditors spend in your office by providing records on demand.

- **Electronic compliance policies and procedures reduce the costs of compliance.** On average, advisors spend nine hours a week on compliance-related tasks. Advisors at firms that use ECM, however, spend only five hours a week on these activities—a huge productivity boost. ECM also eliminates the costs of offsite document storage, lowers the cost of in-house storage and reduces paper, couriering and fax costs.

- **ECM automates document retention and destruction, simplifying recordkeeping and decreasing the amount of work involved in responding to complex regulations.** With an ECM system that encompasses records management, advisors can easily apply consistent policies to records in a variety of media, from Web content and archived e-mails to scanned images and spreadsheets. ECM eliminates the need to manually catalogue, organize and tag this content by automatically performing these tasks. In the face of increased regulatory complexity, automation trumps manual processing in accuracy every time.

- **Workflow allows advisors to quickly prove adherence to many regulatory requirements.** When firms automate the disclosure process using Workflow, advisors cannot progress from one step of the process to the next without meeting specified rules or conditions. For example, a firm can set up its ECM system so that if an advisor does not file a client's disclosure paperwork in the system, the advisor will not be able to select that client's investment products.

Highlights of Dodd-Frank for Financial Advisors

More State Oversight

The Dodd-Frank Act raises the federal registration threshold for investment advisors from $25 million to $100 million in assets under management—unless they are registered in 15 or more states. This will shift the regulation of smaller advisors from the SEC to state securities regulators. The SEC currently audits approximately nine percent of the RIAs in its purview every year.

Since the Madoff scandal and economic meltdown, many states have increased the frequency of audits, tightened registration requirements and imposed more regulations on RIAs. Expect the states to step up enforcement and registration activities even more now that they will have primary regulatory jurisdiction over a substantially increased number of advisors. With fewer firms under the SEC's purview, the larger advisors who remain under the SEC's jurisdiction should also expect increased scrutiny and more frequent audits.

When facing complex audits on a more frequent basis, advisors who pull documents from paper files, Windows folders or their CRM systems will be at a serious disadvantage, since these methods do not allow them to easily search for documents based on multiple variables such as date range, document type, etc.

Likely Impact on Independent Financial Advisors:

- For smaller advisors, more frequent audits by state regulators.
- For larger advisors, more frequent audits by the SEC.

How ECM Can Help:

- Instant document retrieval expedites audits.

Fiduciary Standard for Broker-Dealers

After conducting a six-month study, the SEC is authorized to develop rules establishing a standard of conduct for all broker-dealers and investment advisers: to act in the best interest of the customer. This fiduciary standard is already in place at RIA firms, but the results of the study may lead to new regulations that could increase the complexity of compliance for all advisory firms, not just broker-dealers.

Likely Impact on Independent Financial Advisors:

- More disclosure required in the account opening process.
- Increased supervision from the SEC.
- Increased costs for broker-dealers and dually-registered RIA firms.
- More complex compliance regulations for RIA firms already operating under the fiduciary standard.

How ECM Can Help:

- Workflow automates disclosure, streamlining compliance processes.
- Electronic policies and procedures reduce the costs of compliance.
- Automated document retention and destruction decreases the amount of work involved in responding to complex regulations
- ECM simplifies recordkeeping, making disclosure less onerous.
- Instant document retrieval expedites audits.

Increased Scrutiny from FINRA

The Dodd-Frank Act requires the SEC to study whether Congress should designate one or more self-regulatory organizations (SROs) to bolster the SEC supervision and exam schedule. If the SEC decides that it is necessary to establish a fiduciary standard for broker-dealers, a comprehensive examination program will need to be established; in this case, experts and analysts note that the resources of an SRO such as FINRA would be enormously helpful to the SEC.

Likely Impact on Independent Financial Advisors:

- Increased supervision from FINRA.
- More frequent audits.

How ECM Can Help:

- Workflow automates disclosure, streamlining compliance processes.
- Instant document retrieval expedites audits.
- Automated document retention and destruction decreases the amount of work involved in responding to complex regulations.
- ECM simplifies recordkeeping, making disclosure less onerous.

Financial Planner Regulation Study

Dodd-Frank directs the Government Accountability Office (GAO) to conduct a six month-study to review whether more oversight is needed for financial planners in order to better protect investors and consumers. The study may recommend the need for increased regulation, including competency and ethical standards for those who market themselves as planners, and may also support recognizing financial planning as a distinct profession.

Likely Impact on Independent Financial Advisors:

- More reporting and oversight.

How ECM Can Help:

- Electronic policies and procedures reduce the costs of compliance with new regulations.
- Instant document retrieval expedites audits.
- Automated document retention and destruction decreases the amount of work involved in responding to complex regulations.
- ECM simplifies and reduces the cost of recordkeeping.
- Workflow automates disclosure, streamlining compliance processes.

Elimination of Private Advisor Exemption

The Dodd-Frank Act mandates registration for small advisors and private fund advisors with fewer than 15 clients. As a result, advisors to private funds (excluding venture capital funds) who manage $150 million or more will be required to register as RIAs with the SEC, bringing more reporting and oversight.

Likely Impact on Independent Financial Advisors:

- More reporting and oversight.

How ECM Can Help:

- Instant document retrieval expedites audits.
- ECM simplifies and reduces the cost of recordkeeping.

Enhanced Enforcement of Securities Laws

The Dodd-Frank Act aims to increase regulatory enforcement and remedies under the federal securities laws through civil litigation. For example, the act allows the SEC to impose limits on the use of mandatory arbitration agreements for disputes arising under the federal securities laws. This could lead to more of these disputes ending up in civil courts, which would impact recordkeeping and e-discovery practices.

Likely Impact on Independent Financial Advisors:

- Need to produce documents quickly.
- Cost and time of recordkeeping will increase.
- Need to implement records management plan.

How ECM Can Help:

- Instant document retrieval expedites e-discovery.
- ECM simplifies and reduces the cost of recordkeeping.
- Automated document retention and destruction decreases the amount of work involved in managing records.

Increased Hedge Fund and Family Office Reporting

Dodd-Frank allows the SEC to request extensive information about private funds including assets, trading and investment positions, valuation, side letters and trading practices. This means that private fund advisors will have to shore up their recordkeeping practices and be prepared for SEC examinations.

Likely Impact on Independent Financial Advisors:

- Need to produce documents quickly.
- Need to implement records management plan.
- Need to implement audit preparation strategy.

How ECM Can Help:

- Instant document retrieval expedites audits.
- ECM simplifies and reduces the cost of recordkeeping.
- Automated document retention and destruction decreases the amount of work involved in managing records.

Conclusion

In the face of Dodd-Frank's regulatory overhaul, it will be the advisors who proactively invest in technology to improve the efficiency of their compliance programs and everyday operations who will realize a disproportionate share of the growth. Laserfiche ECM systems have been proven to improve compliance, efficiency and profitability at advisory firms across the country. If you haven't already explored how this cutting-edge technology can help your firm adapt to the changes mandated by the Dodd-Frank Act, there's never been a better time to learn more.

What Advisors Say about ECM

Xypria Investment Advisors uses Laserfiche ECM so that its advisors can perform mission-critical, profitable work even during audits. "The auditors call you a week or two before they show up and ask for the specific information they want to see. Prior to implementing our ECM system, everything else was swept to the sidelines until we found what they needed," says Joseph Salpietro, Xpyria's president and CEO. "We didn't want to go through that anymore."

Melissa Provost of The Patrick Group adds, "During our last audit, instead of the auditor requesting documents and sitting and waiting while we found them, we gave them a desktop computer that was logged into Laserfiche. Normally our audits last from about 8:30 am until 12 noon, but with Laserfiche the auditor was out the door by 10:30 am."

Meanwhile, Amy Flourry, operations manager at Rehmann Financial, notes that ECM has boosted efficiency so much at Rehmann that the firm has brought on four new advisors in the last year but hasn't had to bring on any new administrative staff. "When you tell your executives that your administrative staff can do something in 20 minutes that used to take four hours, they can appreciate that," she says.

Paul Murphy, national sales director at Spire Investment Partners, adds, "If financial advisors aren't talking to people, they're not making money." But Murphy's top earners were spending far too much time staying on top of client paperwork. ECM, he says, makes the whole staff more efficient.

"The goal," he explains, "is to apply technology to make work easier. Efficient process flow obviously increases efficiency. If everyone is more efficient, they're happier. If they're happier, they're more productive. If they're more productive, you're more profitable."

He concludes, "ECM is a modest capital investment over a long-term boost, which also keeps you on the straight and narrow when it comes to regulatory issues."

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The Laserfiche Institute teaches staff, resellers, and current and prospective clients how to use Laserfiche most effectively. As part of this mission, the Institute conducts more than 500 Webinars each year, covering a variety of topics. The Institute also hosts an annual conference where members of the Laserfiche community attend presentations and network to share ideas and learn best practices. Additionally, the Institute conducts a number of regional training sessions and provides resellers with content for more than 100 user conferences each year.

The Institute also develops and distributes educational material through the Laserfiche Support Site. On this Website, clients can access training videos, participate in online forums and download technical papers and presentations that help them become savvier ECM users.

For more information, contact:
info@laserfiche.com

Laserfiche
3545 Long Beach Blvd.
Long Beach, CA 90807
United States

Phone: 562-988-1688
Toll-free: 800-985-8533 (within the U.S.)
Fax: 562-988-1886
Web: www.laserfiche.com