



ORTUS BULLETIN

Global Changes in Regulation and Enforcement Raise the Stakes for Due Diligence

Dear Friends, Colleagues, and Partners of Ortus:

I would like to take this opportunity to inform you about several important developments that will shape how Canadian companies do business around the world.

First, prosecutors and regulators are increasingly targeting the proceeds from improper conduct as laundered through the financial system. The ongoing cases involving a sovereign wealth fund in Malaysia (1MDB) and certain European telecoms provide instructive examples. In the United States, prosecutors have recently focused on asset recovery under the Department of Justice's Kleptocracy Asset Recovery Initiative. In a matter involving telecommunications operators in Uzbekistan, the United States filed an action to seize more than \$850 million in assets around the world stemming from a conspiracy to launder corrupt payments made to a close relative of a high-ranking Uzbek government official. More recently, Dutch prosecutors have acted to seize over €300 million in assets in respect of the same matter.

Second, Canada's own regulators are focusing on flagging higher-risk customers and performing robust due diligence on them as part of an enhanced anti-money laundering regime. For example, higher-risk parties such as politically exposed persons (PEPs), both foreign and domestic, need to be identified by reporting entities and handled accordingly. Recent amendments to Canadian regulations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act, 2016*, raise the bar on customer due diligence and flagging of PEPs as part of an effective anti-money laundering program. Canada is a founding member of the Financial Action Task Force and Canada's anti-money laundering regime will continue to be enhanced to align with emerging international standards.

Laws and regulations – such as those covering corruption, fraud, tax, and money laundering – should not be viewed in isolation when it comes to undertaking due diligence on third parties. Rather, for Canadian businesses operating globally, it is important to embrace a set of common principles to address various compliance risks transparently. Such principles include: (1) identifying exactly who they do business with; (2) performing robust due diligence on customers and third parties; (3) documenting the due diligence review; (4) addressing and mitigating any indications of heightened risk; and (5) updating this due diligence periodically.

It is essential that we work together to maintain and enhance the reputation of Canadian businesses in the face of these changes. No longer can businesses sit back and protect themselves by claiming ignorance or appealing to legal technicalities. Global and national developments are raising the bar for transparency, compliance, risk management, and the overall approach to business relationships. Ortus has significant experience with major enforcement cases as well as the regulatory agencies shaping this new landscape in Canada. We would be pleased to discuss these developments – and what they mean for your organization – with you at your convenience.

ABOUT ORTUS – Launched in 2016, Ortus provides effective strategies for crisis response and transformational change, drawing on the experience of its professionals in landmark global cases. Acting as a trusted advisor, a hands-on coach, or a credible, independent reviewer, Ortus helps organizations respond to crises, rebuild structures for compliance, and transform the way they do business.