

## The Canadian Difference

by Ellen Moore

Canada and the United States have such close business ties that it is not uncommon for U.S. multinationals to think the two countries are essentially the same when it comes to the insurance market's requirements

But in some respects, the Canadian market is much more open and competitive than the market in the United States. Unlike the United States, for instance, Canada does not regulate insurance rates or forms, except for personal auto insurance. But there are still important requirements. Insurers and brokers must be licensed and pay provincial and federal taxes. Multinationals that work with unlicensed insurers and brokers will lose the benefit of Canadian regulatory protections and may be putting themselves at risk for increased taxes and penalties.

In addition to compliance issues, multinationals need to know that the terms and conditions offered under Canadian policies are also often quite different from those offered in U.S. policies. In fact, the coverage in a Canadian policy may be broader than what multinationals find in most U.S. master control policies. Multinationals that assume they are obtaining the broadest possible coverage under the U.S. master control policy could end up with less coverage than they would have had under the local Canadian policy.

As countries that share a long border and a long trading history, multinationals also tend to underestimate how different the two countries can be when it comes to the risk of doing business in Canada. Privacy, for instance, is an area that could cause problems for multinationals.

In the U.S., data notification laws require companies to disclose whenever there has been a breach of a customer's private information. In Canada, privacy laws are based on the principle that no personal information should be gathered, used or disclosed without consent and, as a result, are broader than U.S. privacy laws. Several years ago, Winners Merchants and HomeSense, both Canadian subsidiaries of The TJX Companies, Inc., were found to have violated Canadian privacy laws by, among other things, improperly storing customer credit card numbers. At the time, TJX disclosed that close to 46 million customer accounts, two million of them in Canada, were compromised over a nearly two-year period.

Employment practices is another area that could lead to liability problems for multination-

als. Under Canadian law, for instance, employers are expected to provide most employees with continuous employment. Before putting any layoffs into effect, employers must give employees enough notice, or pay in lieu of notice, so that they can find new jobs and make themselves whole. If they follow standard U.S. employment practices, multinationals may run the risk of lawsuits.

The province of Quebec poses another set of challenges. With its deep French roots, Quebec is one of the only jurisdictions in North America with a civil law system rather than an English-based common law system. Quebec also has a number of French language requirements. Companies are required, for instance, to use French when marketing products in Quebec.

To obtain the best service and advice, companies with operations in Canada should work with insurers and brokers that have extensive knowledge of the country's laws and requirements and are either based in Canada or have reciprocal arrangements with Canadian companies. Before working with any broker or insurer, multinationals should conduct a thorough vetting process to ensure the companies are in compliance with Canadian regulations.

Canada and the United States may be close allies in many respects, but the risks and insurance requirements can be quite different. Knowledge of those differences can help protect multinationals against unexpected, and often avoidable, regulatory and business risks. ■

