

May 3, 2005

IN THE MATTER OF
THE SECURITIES ACT, R.S.O. 1990, CHAPTER S.5, AS AMENDED (the "Act")
AND
IN THE MATTER OF
REGULATION 1015 MADE UNDER THE ACT, R.R.O. 1990, AS AMENDED (the
"Regulation")
AND
IN THE MATTER OF
THE MFDA INVESTOR PROTECTION CORPORATION
AND
IN THE MATTER OF
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA

APPROVAL ORDER

(Section 110 of the Regulation)

WHEREAS, pursuant to section 110(1) of the Regulation, every dealer, other than a security issuer, shall participate in a compensation fund or contingency trust fund approved by the Commission and established by, among others, a self-regulatory organization;

AND WHEREAS the Mutual Fund Dealers Association of Canada (MFDA) and the MFDA Investor Protection Corporation (MFDA IPC) have applied for approval, pursuant to section 110(1) of the Regulation, of the MFDA IPC as a compensation fund for customers of mutual fund dealers that are members of the MFDA;

AND WHEREAS the MFDA IPC is established by the MFDA;

AND WHEREAS the Commission has recognized the MFDA as a self-regulatory organization under section 21.1 of the Act on February 6, 2001 (Recognition Order);

AND WHEREAS the terms and conditions of the Recognition Order refer to the establishment of the MFDA IPC;

AND WHEREAS members of the MFDA must contribute to the MFDA IPC by way of assessments pursuant to MFDA by-laws;

AND WHEREAS the MFDA IPC intends to provide protection to eligible customers of MFDA members on a discretionary basis to prescribed limits if securities, cash and other property held by any such member are unavailable as a result of the member's insolvency;

AND WHEREAS the MFDA IPC intends to commence coverage of customer accounts on July 1, 2005 (Coverage Date);

AND WHEREAS the MFDA IPC will, prior to the Coverage Date, enter into an agreement with the MFDA pursuant to which the MFDA IPC will receive all information it deems necessary to ensure that the MFDA IPC can fulfil its mandate and manage risks to the public and MFDA IPC assets on a reasonable basis;

AND WHEREAS the MFDA IPC and the MFDA have agreed to the terms and conditions set out in Schedule "A";

AND WHEREAS the terms and conditions set out in Schedule "A" may be varied or waived by the Commission;

AND WHEREAS, based on the application of the MFDA and the MFDA IPC and the representations and undertakings the MFDA and the MFDA IPC have made to the Commission, the Commission is satisfied that the approval of MFDA IPC would not be prejudicial to the public interest;

The Commission hereby approves the MFDA IPC as a compensation fund pursuant to section 110 of the Regulation, subject to the terms and conditions set out in Schedule "A".

"David A. Brown"

"Paul M. Moore"

SCHEDULE A

TERMS AND CONDITIONS

1. Corporate Structure and Purpose of the MFDA IPC

The MFDA IPC has, and will continue to have, the appropriate legal authority to carry out its objective of providing compensation, in accordance with established by-laws, rules, regulations or policies of the MFDA IPC, to eligible customers of members of the MFDA on a discretionary basis to prescribed limits if customer property comprising securities, cash and other property held by such members (Customer Property) is unavailable as a result of the insolvency of such members.

2. Corporate Governance

(a) To ensure diversity of representation, the MFDA IPC will ensure that:

(i) its board of directors (Board) is comprised of individuals that represent the size, diversity, nature and regional distribution of the businesses of MFDA members and the interests of investors in order to provide a proper balance between the differing interests among MFDA members and investors; and

(ii) in recognition that the protection of the public interest is a primary goal of the MFDA IPC, its Board is comprised of an odd number of directors, the majority of which will be public directors.

(b) For greater certainty, a public director is a director

(i) who is not a current director (other than a public director of the MFDA IPC), officer or employee of, or of an associate or affiliate of:

(A) the IPC,

(B) the MFDA, or

(C) the Investment Funds Institute of Canada or the Investment Dealers Association of Canada;

(ii) who is not a current director, partner, significant shareholder, officer, employee or agent of a member, or of an associate or affiliate of a member, of:

(A) the MFDA, or

(B) the Investment Funds Institute of Canada or the Investment Dealers Association of Canada;

(iii) who is not a current employee of a federal, provincial or territorial government or a current employee of an agency of the Crown in respect of such government;

(iv) who is not a current member of the federal House of Commons or member of a provincial or territorial legislative assembly;

(v) who has not, in the two years prior to election as a public director, held a position described in (i)-(iv) above;

(vi) who is not:

(A) an individual who provides goods or services to and receives direct significant compensation from, or

(B) an individual who is a director, partner, significant shareholder, officer or employee of an entity that receives significant revenue from services the entity provides to, if such individual's compensation from that entity is significantly affected by the services such individual provides to,

the IPC, the MFDA or a member of the MFDA; and

(vii) who is not a member of the immediate family of the persons listed in (i)-(vi) above.

(c) For the purposes of the above definition of public director:

(i) "significant compensation" and "significant revenue" means compensation or revenue the loss of which would have, or appear to have, a material impact on the individual or entity;

(ii) "significant shareholder" means an individual who has an ownership interest

in the voting securities of an entity, or who is a director, partner, officer, employee or agent of an entity that has an ownership interest in the voting securities of another entity, which voting securities in either case carry more than 10% of the voting rights attached to all voting securities for the time being outstanding.

(d) Notwithstanding 2(b)(i)(A), above, the Chair shall be eligible as a public director as long as he or she

(i) holds no other office with the MFDA IPC;

(ii) is not an employee of the MFDA IPC; or

(iii) performs no management or executive functions on behalf of the MFDA IPC in respect of its operations after the earlier of

(A) the third anniversary of the date of approval of the MFDA IPC as a compensation fund; and

(B) the date the MFDA IPC first hires its own executive officers or management employees.

(e) The MFDA IPC's governance structure will provide for:

(i) fair and meaningful representation on its Board and any committees of its Board, having regard to the differing interests among MFDA members and investors;

(ii) appropriate representation of persons independent of the MFDA or any of its members or of any affiliated or associated company of such member on MFDA IPC committees and on any executive committee or similar body;

(iii) appropriate qualification, remuneration, conflict of interest provisions and limitation of liability and indemnification protections for directors and officers and employees of the MFDA IPC generally; and

(iv) an audit committee, the majority of which will be made up of directors that are public directors.

(f) The MFDA IPC Board or MFDA IPC members will appoint independent auditors for the MFDA IPC, for the purpose of conducting an audit of the MFDA IPC's annual financial statements.

3. Funding and Maintenance of MFDA IPC

(a) The MFDA IPC will have a fair, transparent and appropriate process for setting fees, levies and assessments (collectively, the Assessments) for each MFDA member's contribution. The Assessments will:

(i) be allocated on an equitable basis among MFDA members; and

(ii) balance the need for the MFDA IPC to have sufficient revenues to satisfy claims in the event of an insolvency of an MFDA member and to have sufficient

financial resources to satisfy its operations costs against the goal that there be no unreasonable financial barriers to becoming a member of the MFDA.

(b) The MFDA IPC has provided the Commission with a current copy of the method of assessing MFDA members and will notify the Commission 30 days prior to making any changes to the method of assessment.

(c) The MFDA IPC will make all necessary arrangements for the notification to MFDA members of the Assessments and the collection of the Assessments either directly from MFDA members or indirectly through the MFDA.

(d) The MFDA IPC Board has determined that \$30 million, comprised of cash and credit facilities from institutional lenders, is an adequate initial fund size. The MFDA IPC Board will conduct an annual review, the first to be completed twelve months after approval and thereafter on a calendar year basis, of the adequacy of the level of assets, Assessment amounts and Assessment methodology and will ensure that the level of assets remains adequate to cover potential customer claims pursuant to section 4.

(e) The MFDA IPC will immediately report to the Commission any actual or potential material adverse change in the level of MFDA IPC assets.

(f) Any increases in fund size or changes to Assessments or Assessment methodology will be determined by the MFDA IPC Board after consultation with the MFDA. If the MFDA does not agree with the MFDA IPC's proposed changes, the MFDA IPC will immediately report such disagreement to the Commission. However, this will not prevent the IPC from imposing Assessments in order to permit the MFDA IPC to meet its obligations to its lenders or to satisfy claims incurred from eligible customers of MFDA members that exceed the assets available to the MFDA IPC.

(g) Moneys in the MFDA IPC will be invested in accordance with rules, regulations and policies (collectively, the Investment Policies) approved by the MFDA IPC Board, who will be responsible for regular monitoring of the investments. The general parameters of the Investment Policies shall include safety of principal and a reasonable income while at the same time ensuring that sufficient liquid funds are available at any time to pay customer claims. The MFDA IPC shall provide the Commission with its current Investment Policies and will inform the Commission of any changes to the Investment Policies within thirty days of such changes.

(h) The MFDA IPC will implement an appropriate accounting system, including a system of internal controls for maintaining MFDA IPC assets.

4. Customer Protection

(a) The MFDA IPC will provide, on a discretionary basis, fair and adequate coverage, for all eligible customers of MFDA members, for customer losses of Customer Property resulting from the insolvency of an MFDA member.

(b) Without limiting the foregoing, the MFDA IPC will provide, at a minimum, coverage of \$1,000,000 per separate account (as defined in the MFDA IPC Coverage Policy) of an eligible customer for Customer Property, where customer losses result from the insolvency of an MFDA member.

(c) The MFDA IPC will offer coverage in a jurisdiction only if the requirements relating to risk management, prudent business conduct and practices and firm solvency that apply in that

jurisdiction are not materially different from the requirements established by the MFDA IPC and/or the MFDA and the MFDA and the MFDA IPC are able to monitor and enforce their requirements in this regard.

(d) The MFDA IPC has established and will maintain by-laws, rules, regulations and policies (collectively, the Coverage Policies) relating to customer coverage including, but not limited to:

(i) a definition of eligible customer and ineligible customer;

(ii) types of products covered and amount of coverage per eligible customer account;

(iii) a process for the review of claims that will be based on fairness to customers, expediency and cost efficiency and that will ensure that decisions by the MFDA IPC will be objective and consistent with prior decisions according to the Coverage Policies; and

(iv) a fair and reasonable internal appeals or review process whereby customer claims that are not accepted for payment by the initial reviewer(s) will be reconsidered by directors, either individually or in a sub-committee, who were not involved in the initial decision under review.

(e) The Coverage Policies will not prevent a customer from taking legal action against the MFDA IPC in a court of competent jurisdiction in Canada, nor will the MFDA IPC contest the jurisdiction of such a court to consider a claim where the claimant has exhausted the MFDA IPC's internal appeals or review process.

(f) The MFDA IPC will provide a current copy of the Coverage Policies to the Commission and the MFDA IPC will inform the Commission 30 days prior to implementing any changes to its Coverage Policies.

(g) The MFDA IPC will adequately inform customers of MFDA members, either directly or indirectly through the MFDA, of the principles and policies on which coverage will be available, including, but not limited to, the process for making a claim and the maximum coverage available per customer account.

(h) In the event of an insolvency of a member of the MFDA, the MFDA IPC will respond quickly and decisively, in accordance with its Coverage Policies, in assessing claims.

(i) The MFDA IPC and the MFDA will co-operate and provide reasonable assistance to each other when a member firm is in or is approaching financial difficulty, or when either the MFDA IPC or the MFDA is administering an insolvency.

5. Financial and Operational Viability

(a) The MFDA IPC has, and will maintain, sufficient financial and human resources for the proper performance of its functions including, but not limited to,

(i) assessing and managing risks to the public and to MFDA IPC assets;

(ii) administering any insolvencies, including the processing of customer claims;

(iii) setting and collecting of Assessments, including conducting reviews of the Assessment methodology;

(iv) maintaining an adequate fund size, including assessing the fund size on a regular basis; and

(v) day-to-day administrative work, including required reporting to the Commission.

(b) The MFDA IPC will ensure that it has sufficient funds set aside and allocated to operating costs within 90 days of this order being granted.

6. Risk Management

(a) The MFDA IPC will ensure it identifies and requests all necessary information from the MFDA, and the MFDA will provide such information, in order for the MFDA IPC to:

(i) fulfil its mandate and manage risks to the public and to MFDA IPC assets;

(ii) assess whether the prudential standards and operations of the MFDA are appropriate for the coverage provided and the risks incurred by the MFDA IPC; and

(iii) identify and deal with MFDA members that may be in financial difficulty.

(b) While the MFDA IPC will usually rely on the MFDA to conduct reviews of MFDA members for MFDA IPC purposes, the MFDA IPC will reserve the right to conduct reviews of MFDA members in particular situations where the MFDA IPC has concerns about the integrity of the fund or possible claims.

(c) The MFDA IPC will monitor risk management issues and will report to the Commission, on an annual basis, on how the MFDA IPC evaluated risks, what risk management issues were identified and how the MFDA IPC dealt with these issues. The annual report will also include an assessment by the MFDA IPC Board of the need for additional risk management tools.

(d) As part of the first annual risk management review, the MFDA IPC will include a review of the different risks posed by different types of products and assess the appropriateness of offering coverage for all Customer Property.

7. Reporting to the Commission

(a) The MFDA IPC will provide to the Commission any reports, documents or information requested by the Commission or Commission staff. The Commission or Commission staff and the MFDA IPC may review and revise such reporting requirements as necessary on an on-going basis.

(b) The MFDA IPC will immediately notify the Commission where it has knowledge of:

(i) any conditions which in the opinion of the MFDA IPC could give rise to payments being made out of the MFDA IPC, including any conditions which have contributed substantially to or, if appropriate corrective action is not taken, could reasonably be expected to:

(A) inhibit an MFDA member from promptly completing securities transactions, promptly segregating customers' securities as required or promptly discharging its responsibilities to customers, other MFDA members or other creditors,

(B) result in material financial loss,

(C) result in material misstatements of an MFDA member's financial statements, or

(D) result in violations of the minimum record requirements to an extent that could reasonably be expected to result in the conditions described in paragraphs (A), (B) or (C) above;

(ii) misconduct or apparent misconduct by an MFDA member or its registered or approved employees and others where investors, customers, creditors, MFDA members, or the MFDA IPC may reasonably be expected to suffer serious damage as a consequence thereof, including where the solvency of an MFDA member is at risk, fraud is alleged or there is a concern of deficiencies in supervision or internal controls; and

(iii) the withdrawal or expulsion of any MFDA member from the MFDA.

(c) The MFDA IPC will provide to the Commission a report detailing any action taken with respect to an MFDA member in relation to the member's insolvency. The report shall describe the circumstances of the insolvency, including a summary of the actions taken by the MFDA member, the MFDA and the MFDA IPC and any committee or person acting on behalf of such parties.

(d) The annual audited financial statements of the MFDA IPC, prepared in accordance with generally accepted accounting principles, will be delivered to the Commission promptly after being approved by the MFDA IPC Board and no later than 120 days after the close of the MFDA IPC fiscal year.

(e) The MFDA IPC shall provide a written report to, and will meet with, the Canadian Securities Administrators (CSA) or their representatives at least once a year to report on the MFDA IPC's operations and activities including, but not limited to:

(i) the MFDA IPC Board's annual review of the adequacy of the level of assets in the fund, Assessment amounts and the Assessment methodology;

(ii) MFDA IPC resources;

(iii) MFDA member firm failures and any resulting customer claims;

(iv) risk management issues; and

(v) the results of any reviews of MFDA members.

8. Rules

(a) The MFDA IPC will establish by-laws, rules, regulations, policies, procedures, practices and other similar instruments (Rules) that:

- (i) are not contrary to the public interest; and
- (ii) are necessary or appropriate to govern all aspects of its business and affairs.

(b) More specifically, the MFDA IPC will ensure that:

- (i) the Rules are designed to:
 - (A) ensure the continued business viability of MFDA members,
 - (B) ensure reasonable funding of the MFDA IPC through Assessments to MFDA members, without creating unreasonable barriers to the mutual fund industry and without compromising investor protection,
 - (C) ensure the maintenance of a reasonable level of MFDA IPC assets to afford protection for eligible customers of MFDA members, and
 - (D) ensure that its business is conducted in an orderly manner so as to afford protection to investors;
- (ii) the Rules shall not:
 - (A) be contrary to securities legislation,
 - (B) permit unreasonable discrimination among customers of MFDA members and among MFDA members, or
 - (C) impose any burden on competition that is not necessary or appropriate in furtherance of securities legislation.

9. Agreement between the MFDA IPC and the MFDA

The MFDA IPC and the MFDA will, prior to the Coverage Date, enter into an agreement, approved by the Commission or the Executive Director, where applicable, pursuant to which the MFDA IPC will, among other things, receive all information it deems necessary to ensure that the MFDA IPC can fulfil its mandate and manage risks to the public and to MFDA IPC assets on a reasonable basis. Such agreement, as may be amended from time to time, shall continue to be in force at all times. All amendments will be subject to prior approval by the Commission or the Executive Director, where applicable.

10. Establishment of a Working Group

(a) The MFDA IPC will establish a working group consisting, at a minimum, of representatives of the MFDA IPC, the MFDA and mutual fund dealers (including representatives from both mutual fund dealers that hold client investments primarily in client name and mutual fund dealers that do not hold client investments primarily in client name), with representatives of the CSA as observers, to review various aspects of the MFDA IPC, including, but not limited to, the following:

- (i) identification of the risks of mutual fund dealer failures leading to potential

investor losses;

(ii) consideration of the size of fund that is appropriate having regard to:

- (A) identified risks,
- (B) amounts of Customer Property held in client name,
- (C) amounts of Customer Property held in nominee name,
- (D) average size of customer accounts,
- (E) average cash flow of customer monies through the dealer, and
- (F) other non-mutual fund products being covered under the fund;

(iii) the type of products that should be covered;

(iv) the appropriate coverage amount per customer account;

(v) assessment methodology, including whether it should be risk based;

(vi) the appropriate long term methods of funding the MFDA IPC;

(vii) the types of risk management tools required by the MFDA IPC; and

(viii) the appropriate MFDA IPC advertising requirements.

(b) A written report of the working group's findings will be submitted to the MFDA IPC Board and to the Commission within one year from the date of Commission approval of the MFDA IPC.

(c) The MFDA IPC Board will evaluate the working group's findings and will provide a written report of its evaluation to the Commission and to the working group within 30 days of receipt of the working group's report.