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MFDA Bulletin

Policy

For Distribution to Relevant Parties within your Firm

CSA Staff Joint Notice Concerning National Instrument 23-101

A Joint Notice entitled "*Electronic Audit Trails*" was published by staff of the Canadian Securities Administrators, Market Regulation Services Inc., Bourse de Montreal Inc. and the Investment Dealers Association of Canada on March 28, 2003. A copy of the Joint Notice may be obtained from the Ontario Securities Commission website: www.osc.gov.on.ca.

The Joint Notice relates to National Instrument 23-101 *Trading Rules* (NI 23-101). A copy of NI 23-101 may be obtained from the Ontario Securities Commission website: www.osc.gov.on.ca

The Joint Notice reminds dealers, including mutual fund dealers, that Part 11 of NI 23-101 requires dealers to maintain certain records relating to orders and trades. Dealers are required to maintain detailed records respecting: receipt or origination of an order; transmission of an order; variation or correction or cancellation of an order; and execution of an order. Part 11 of NI 23-101 requires that as of December 31, 2003, these records must be maintained in electronic form. Further, the national instrument requires that if a dealer receives a request for these records from a "regulation services provider" – such as the MFDA – then such records must be transmitted to the regulation services provider in electronic form.

NI 23-101 does not impose an obligation on MFDA Members to transmit their mutual fund orders electronically to fund companies.

MFDA Members should note that a number of the record-keeping requirements set out in NI 23-101 are already contained in MFDA Rules. Also, a number of the detailed record-keeping requirements set out in NI 23-101 do not apply to the business and operations of mutual fund dealers (such as the requirements in NI 23-101 to record whether an order is a short sale order or whether it is a jitney or whether it is an intentional cross). However, MFDA Members should be aware that there are additional particulars that are expressly set out in Part 11 of NI 23-101 that are not expressly set out in MFDA Rules. For example, NI 23-101 requires dealers to record:

- an “order identifier” upon receipt or origination of each order;
- a “dealer identifier” upon receipt or origination of each order;
- the currency for each order;
- the date and time each order is transmitted (whether done through FundServ or manually);
- whether an order was varied/corrected/cancelled on instructions of the client or the dealer; and
- in the case of a variation/correction/cancellation, a change in the base-line information required to be recorded on receipt of each order.

MFDA Members are encouraged to review the detailed record-keeping requirements for all orders and trades set out in Part 11 of NI 23-101 and to ensure that their internal control systems and processes are adequate to comply with the legal requirements.

END.

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