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MFDA Bulletin

Membership Information

For Distribution to Relevant Parties within your Firm

Amendments to MFDA Rules and Policy No.3 (Handling Client Complaints)

The MFDA Board of Directors approved certain amendments to the MFDA Rules and Policy No.3 (Handling Client Complaints) on June 13, 2003. As part of the approval process, the amendments were published by the recognizing securities commissions for a 30-day comment period in the Ontario Securities Commission Bulletin. The amendments set out below have received the requisite approval of MFDA Members and the recognizing securities commissions and are now in effect.

An amended version of the MFDA Rules and Policy No.3 can be found on the MFDA website. The following is a brief summary of the amendments to the MFDA Rules and Policy No.3. An updated version of the MFDA Rulebook on CD-ROM will be distributed to Members in the near future.

A. Summary of Amendments to MFDA Rules

Public Interest Rule Amendments

1. Business Structures [Rule 1.1.1(a)(ii)]

Subject to compliance with the Bank Act (Canada) and the regulations thereunder and applicable securities legislation, the amendment permits securities related business engaged in by an Approved Person as an employee of the bank to be carried on for the account of the bank, through the facilities of the bank, rather than the Member.

2. Service Arrangements [Rule 1.1.3]

The amendment clarifies that Members and Approved Persons may enter into service arrangements with another Member and Approved Person.

3. Introducing and Carrying Arrangement [Rule 1.1.6)(b)(viii)(ix)]

Amendments have been made to the disclosure requirements under Rule 1.1.6)(b)(viii)(ix) to accord with the degree of compliance responsibility assumed by carrying dealers in Level 2, 3 and 4 introducing/carrying relationships.

4. “Know-Your-Client” [Rule 2.2.1(d)]

The amendment clarifies the obligations of Members and their Approved Persons in the event that they receive an unsolicited order that they determine is unsuitable for the client. A new provision has been added to Rule 2.2.1 to ensure that where a transaction proposed by a client is not suitable for the client and in keeping with the client’s investment objectives, the Member has so advised the client before execution thereof.

5. Power of Attorney/ LTA [Rule 2.3.1(b)]

The amendment provides that Members may permit their Approved Persons to accept or act upon a general power of attorney or similar trading authorization from a spouse, child or parent of the Approved Person provided that an Approved Person other than the Approved Person holding the general power of attorney is the Approved Person of record on the account.

6. Rates of Return [Rule 2.8.3]

The amendment requires that where a client account has been open for less than twelve months, the rate of return shown must be the total rate of return since account opening.

7. Transfers of Account [Rule 2.12]

The amendment clarifies that the requirements with respect to transfers of accounts prescribed under Rule 2.12 apply generally to any account transfer of a client of a MFDA Member, including transfers from a Member to a non-Member.

8. Mail Insurance [Rule 4.1]

The amendment provides that Members are not required to effect and keep in force mail insurance if the Member does not use the mail for outgoing shipments of cash, securities or other property, negotiable or non-negotiable.

9. Delivery of Account Statement

Self Directed Registered Plans Administered by a Trustee [Rule 5.3.1(c)]

The amendment permits Members operating in client name to rely on the trustee administering self-directed registered plans to send account statements as required by Rule 5.3.1 provided the conditions set out in the Rule are met.

Members Distributing Funds of an Affiliated Fund Manager [Rule 5.3.1 (d)]

The amendment provides that where a Member is affiliated with a fund manager and in connection with a specific client account is selling only the mutual fund securities of an issuer managed by such affiliated fund manager for that client account, then the Member may rely on the affiliated fund manager to send the account statement for that specific client account.

Housekeeping Rule Amendments

Additional minor clarifications and corrections have been made to the Rules, which are considered housekeeping in nature.

(Reference: Rule 1.1.6(a)(iv)(Introducing/Carrying Arrangements), Rule 1.1.7(d)(Business Names, Styles, Etc.), Rule 1.2.2(b)(Branch Managers), Rule 2.2.3(New Account Approval), Rule 3.2.1(Client Lending and Margin), Rule 3.4.2(b)(vi)(Early Warning))

B. Amendments to MFDA Policy No. 3 (Handling Client Complaints)

Policy No. 3 has been amended to:

- require Members and Approved Persons to ensure that all complaints and pending legal actions are made known to the compliance officer at head office (or another person at head office designated to receive such information) within two business days;
- require each Member to report to the MFDA whenever such Member or a partner, director, officer, salesperson, employee or agent of the Member has entered into a private settlement or has disposed of any claim in securities related litigation or arbitration by judgement, award or settlement where the amount exceeds the monetary threshold prescribed (\$25,000 for a Member and \$15,000 for an individual);
- prohibit Approved Persons from entering into a settlement with a client without the prior written consent of the Member; and
- prohibit Members and Approved Persons of Members from imposing confidentiality restrictions on clients with respect to the MFDA or any securities commission, regulatory authority, law enforcement agency, self-regulatory organization, stock exchange or other trading market as part of a resolution of a dispute or otherwise.