



Mutual Fund Dealers Association of Canada
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MFDA Bulletin

Policy

For Distribution to Relevant Parties within your Firm

Exemptive Relief from MFDA Rule 3.3.2(e) (Commingling Prohibition)

The Regulatory Issues Committee of the MFDA Board of Directors has granted exemptive relief from MFDA Rule 3.3.2(e) to all MFDA Members that are Level 3 and 4 Dealers. As a condition of relying on the MFDA relief, MFDA Members are required to obtain relief from the relevant Canadian securities regulatory authorities from the applicable provisions of Part 11 of National Instrument 81-102 (*Mutual Funds*). For more information, Members should refer to *Bulletin #0206-P* issued July 10th, 2006.

The Decision Document of the Regulatory Issues Committee of the MFDA Board of Directors is attached to this Bulletin.

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

DECISION DOCUMENT

Section 37 of MFDA By-law No.1 – Exemptive Relief

Background

- (a) MFDA Rule 3.3.2(e) prohibits Members from commingling money for mutual fund transactions with money held in trust for the purchase and sale of other securities or financial instruments such as guaranteed investment certificates and segregated funds (“the Commingling Prohibition”). The Member must maintain separate trust accounts for cash received for the purchase and sale of other securities or financial instruments.
- (b) MFDA Rule 3.3.2(e) mirrors the requirements set out in Part 11 of National Instrument 81-102 (*Mutual Funds*)(“NI 81-102”).
- (c) The MFDA has received several applications for exemptive relief from Rule 3.3.2(e) and has considered the regulatory purpose of such Rule with respect to all Members.
- (d) Pursuant to section 37 of MFDA By-law No.1, the MFDA Board of Directors may exempt any Member, Approved Person, or any other person subject to the jurisdiction of the Corporation, or any group or class of the foregoing persons, from the requirements of the provisions of the By-laws, Rules and Forms where it is satisfied that to do so would not be prejudicial to the interests of the Members, their clients or the public, and in granting such an exemption the Board of Directors may impose such terms and conditions as are considered necessary and desirable. The MFDA Board of Directors has delegated the consideration and disposition of exemptive relief applications to the Regulatory Issues Committee of the Board pursuant to section 3.6.4 of MFDA By-law No.1.
- (e) The Service Agreement between the MFDA and the MFDA Investor Protection Corporation (“MFDA IPC”) provides that the MFDA shall not grant any exemption to a prudential Rule without providing prior notice to the MFDA IPC and permitting the MFDA IPC with the opportunity to comment. The MFDA IPC has indicated that they have no concerns with the relief requested.
- (f) The MFDA staff is satisfied that the prohibition against commingling money in MFDA Rule 3.3.2(e) has no foundation in regulatory (including investor protection or investor protection fund) policy and, further, that the granting of the exemptions requested would not be a concern with respect to the application of the *Bankruptcy and Insolvency Act* (Canada).

- (g) The MFDA Regulatory Issues Committee of the MFDA Board of Directors has considered the relief requested and has determined that to grant such relief would not be prejudicial to the interests of the Members, their clients or the public.

Decision

The MFDA Regulatory Issues Committee of the MFDA Board of Directors hereby grants exemptive relief to MFDA Members listed in Schedule A to this document (being Level 3 and Level 4 dealers) from MFDA Rule 3.3.2(e) provided that: (a) any Member shall only be able to rely on this relief to the extent and so long as corresponding relief to such Member has been granted by the relevant securities regulatory authorities from the applicable provisions of Part 11 of NI 81-102 and that such relief remains in effect; and (b) the MFDA Regulatory Issues Committee shall not have determined that a change has occurred in the coverage provided by MFDA IPC that, in the opinion of the Committee, would reduce protection to clients of such Member with respect to moneys held by the Member on a commingled basis for such clients in reliance on such relief. All other requirements under MFDA Rule 3.3.2 in respect of the segregation of client cash and the allocation and distribution of interest earned on client cash held in the trust account continue to apply.

SIGNED on behalf of the Committee by its Chair on the 23rd day of June 2006.

“Robert B. MacLellan”

Robert B. MacLellan

Schedule A

The following MFDA Members are eligible for exemptive relief from MFDA Rule 3.3.2(e) provided similar relief is obtained from the relevant provincial securities regulatory authorities from the applicable provisions of Part 11 of NI 81-102:

Acadia Financial Services Inc.
Ackber Financial Corporation
Aegon Dealer Services Canada Inc.
Aldersley Securities Inc.
Altamira Financial Services Ltd.
Armstrong & Quail Associates Inc.
ASL Direct Inc.
Assante Financial Management Ltd.
ATB Investment Services Inc.
Audentium Financial Corp.
Avenue Wealth Management Inc.
AXA Financial Services Inc.
Banwell Financial Inc.
Beacon II Inc.
Berkshire Investment Group Inc.
Bick Financial Security Corporation
Blueprint Investment Corp.
BMO Investments Inc.
Brownstone Investment Planning Inc.
Canfin Magellan Investments Inc.
CIBC Securities Inc.
Clarica Investco Inc.
Coast Capital Investments
Credential Asset Management Inc.
CWM Funds Inc.
De Thomas Financial Corp.
Desjardins Financial Services Firm Inc.
DNL Money Management Ltd.
Doheny Securities Limited
Dundee Private Investors Inc.
Equity Associates Inc.
Evangeline Securities Limited
Family Investment Planning Inc.
Family Wealth Advisors Ltd.
Farm Mutual Financial Services Incorporated
FBANX Securities Inc.
Fidelity Retirement Services Company of Canada Limited
Financial Decisions Inc.
FundEX Investments Inc.
Funds Direct Canada Inc.

FundTrade Financial Corp.
Futureworth Financial Planners Corp.
GBC Asset Management Inc.
GIC Financial Services Inc.
Global Maxfin Investments Inc.
Goldstein Snider Investments Inc.
GP Capital Corporation
HSBC Investment Funds (Canada) Inc.
Hub Capital Inc.
I.F.S. Securities Inc.
iForum Financial Services Inc.
Independent Accountants' Investment Group Inc.
Independent Planning Group Inc.
ING Direct Funds Limited
ING Wealth Management Inc.
Integra Capital Corporation
Interglobe Financial Services Corp.
International Capital Management Inc.
Investia Financial Services Inc.
Investors Group Financial Services Inc.
IOCT Financial Inc.
IPC Investment Corporation
IQON Financial Inc.
Keybase Financial Group Inc.
L&A Financial Inc.
Lawton Partners Financial Planning Services Limited
LBC Financial Services Inc.
Legacy Associates Inc.
Legacy Investment Management Inc.
M.R.S. Inc.
Manulife Securities International Ltd.
Merchant Capital Wealth Management Corp.
META Financial Management Ltd.
Miles Santo and Associates Inc.
Monarch Wealth and Investment Group Inc.
Moneystrat Securities Inc.
National Bank Securities Inc.
NBG Securities Inc.
Odyssey Capital Corporation
Optifund Investments Inc.
OTG Financial Inc.
Partners In Planning Financial Services Ltd.
Peak Investment Services Inc.
Performa Financial Group Limited
Planmar Financial Corp.
Portfolio Strategies Corporation
Professional Investments (Kingston) Inc.
QFS Financial Services Ltd.

Qtrade Asset Management Inc.
Quadrus Investment Services Ltd.
Queensbury Strategies Inc.
Rice Financial Group Inc.
Royal Mutual Funds Inc.
Scotia Securities Inc.
Security Financial Services & Investment Corp.
Select Financial Services Inc.
Select Money Strategies Inc.
Sinclair-CockBurn Financial Services Inc.
State Farm Investor Services (Canada) Co.
Sterling Mutuals Inc
Superstar Investment Corp.
Tandem Wealth Management Inc./Gestion Du Patrimoine Tandem Inc.
TD Investment Services Inc.
TEN STAR Financial Inc.
The Investment House of Canada Inc.
Tradex Management Inc.
Triglobal Capital Management Inc.
Value Investment Planning Centre Inc.
W.H. Stuart Mutuals Ltd.
Wealth Advisory Services Ltd.
Wellington West Financial Services Inc.
WFG Securities of Canada Inc.
Worldsource Financial Management Inc.
Y.I.S. Financial Inc.