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MFDA Bulletin

Policy

For Distribution to Relevant Parties within your Firm

Notice of Exemption Granted Pursuant to Section 37 of By-law No.1

The Regulatory Issues Committee of the MFDA Board of Directors has granted an exemption from the requirements of MFDA Rule 1.2.4 (Currency of Courses) to an employee of Fidelity Retirement Services of Canada Limited seeking designation as a compliance officer. 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

In the Matter of the Application of Fidelity Retirement Services of Canada Limited and Ms. Gina Cho (collectively “the Applicants”) for Exemptive Relief from the requirements of MFDA Rule 1.2.4

Background

- (a) The MFDA has received an application for exemptive relief from the Applicants from the course currency requirements under MFDA Rule 1.2.4 as these requirements would apply in respect of the proposed designation of a compliance officer (Ms. Gina Cho).
- (b) MFDA Rule 1.2.3(b) specifies the courses and examinations that individuals designated as trading officers must successfully complete. Rule 1.2.4 provides an exemption to these course and examination requirements if the individual was registered/licensed under applicable securities legislation in the same category within three years of the relevant time for qualification, or if the individual has successfully completed the course or examination within three years of the relevant time for qualification.
- (c) The intention of MFDA Rule 1.2.4 is to ensure that an individual’s industry knowledge remains relevant and current.
- (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.

Representations

This decision is based on the following facts represented by the Applicants:

- (e) Ms. Cho successfully completed the Canadian Securities Course in 1997 and the Partners’, Directors’ and Senior Officers’ Qualifying Examination in May 2002.

- (f) Although Ms. Cho does not satisfy the currency of courses requirement in MFDA Rule 1.2.4(b), she has been active in the industry since completing the course requirements and has been working in a compliance role under the supervision of a designated compliance officer and has frequently attended educational events.
- (g) Ms. Cho has been granted registration as a trading officer by the Ontario Securities Commission (“OSC”) and has been exempted from the course currency requirements under the Securities Act (Ontario) and regulations and rules under the Act.

Decision

The Regulatory Issues Committee of the MFDA Board of Directors concluded that providing Ms. Cho with an exemption from the requirements of Rule 1.2.4 would not be prejudicial to the interests of the Members, their clients or the public.

The MFDA Regulatory Issues Committee of the MFDA Board of Directors hereby grants exemptive relief to the Applicants from the requirements of Rule 1.2.4 provided that:

- (a) this exemption shall apply in Ontario only so long as Ms. Cho remains registered with the Ontario Securities Commission as a trading officer and functions as such while her registration is based solely on the relief granted to her by the OSC, and
- (b) this exemption shall only apply in a Canadian jurisdiction, other than Ontario, if Ms. Cho satisfies the statutory requirements of that jurisdiction.

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SIGNED on behalf of the Committee by its Chair on the 10th day of July, 2006.

“Robert B. MacLellan”

Robert B. MacLellan