



Mutual Fund Dealers Association of Canada  
Association canadienne des courtiers de fonds mutuels  
121 King Street West, Suite 1000, Toronto, Ontario, M5H 3T9  
TEL: 416-361-6332 FAX: 416-943-1218 WEBSITE: www.mfda.ca

Contact: Mark Stechishin  
Senior Legal & Policy Counsel  
Phone: 416-943-4677  
E-mail: mstechishin@mfda.ca

**BULLETIN #0266 – P**  
July 3, 2007

# MFDA Bulletin

## Policy

**For Distribution to Relevant Parties within your Firm**

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### MFDA Policy 6 (Information Reporting Requirements) and amendments to MFDA Policy 3, MFDA Rule 1.2.5 and MFDA Rule 1.2.6

The MFDA Board of Directors and the recognizing securities commissions have approved MFDA Policy 6 (Information Reporting Requirements) and amendments to MFDA Policy 3, MFDA Rule 1.2.5 and MFDA Rule 1.2.6. Members confirmed the amendments to Rules 1.2.5 and 1.2.6 at the Annual General and Special Meeting of MFDA Members on December 1, 2006. Policy 6, attached as Schedule “A”; amended Policy 3, attached as Schedule “B”; and amended Rules 1.2.5 and 1.2.6, attached as Schedule “C”, are effective July 3, 2007.

For further information on Policy 6 and the above referenced amendments, please see MFDA Bulletin #0265-P.

DM #113911



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**JULY 3, 2007**

## **MFDA POLICY NO. 6**

### **INFORMATION REPORTING REQUIREMENTS**

#### **Introduction**

This Policy establishes minimum requirements concerning events that Approved Persons are required to report to Members and events that Members are required to report to the MFDA pursuant to Rule 1.2.5.

Part A of this Policy, entitled "*Approved Person Reporting Requirements*", sets out details regarding the reporting of information under Rule 1.2.5(b) by Approved Persons.

Part B of this Policy, entitled "*Electronic Reporting Requirements for Members*", sets out details regarding reporting of information under Rule 1.2.5(a)(i) and Rule 1.2.5(a)(ii) by Members. All reporting under Part B must be submitted through the electronic reporting system provided by the MFDA. The reporting of events that are required to be submitted electronically by any other means is a failure to report the event and a failure to comply with this Policy.

Part C of this Policy, entitled "*Other Reporting Requirements for Members*", sets out details regarding reporting of information under Rule 1.2.5(a)(iii) by Members. All reporting under Part C must be submitted to the MFDA in writing.

In addition to these reporting requirements, MFDA Members are required to comply with other reporting requirements which may change from time to time, and which include but are not limited to:

- (a) MFDA reporting requirements, some of which may also require MFDA approval:
  - (i) By-law No.1 section 13.7 – Reorganizations, mergers and amalgamations;
  - (ii) By-law No. 1 section 13.9 – Changes in ownership and control;
  - (iii) Rule 1.1.6 – Introducing/Carrying dealer arrangements;
  - (iv) Rule 3.1.1 – Change in dealer level;
  - (v) Rule 3.1.2 – Risk adjusted capital less than zero;
  - (vi) Rule 3.2.5 – Accelerated payment of long term debt; and
  - (vii) Rule 3.5 – Financial filing requirements
- (b) reporting requirements under applicable provincial securities laws in connection with a Member's mutual fund dealer registration.

## 2. Definitions

“**any jurisdiction**” means any jurisdiction inside or outside of Canada.

“**business day**” means a day other than Saturday, Sunday or any officially recognized Federal or Provincial Statutory holiday.

“**civil claim**” includes civil claims pending before a court or tribunal and arbitration.

“**client**” means a person who is a client of the Member.

“**compensation**” means the payment of a sum of money, securities, reversal or inclusion of a securities transaction (whether the transaction has a realized or unrealized loss) or any other equivalent type of entry which is intended to compensate a client or offset an act of a Member or Approved Person. A correction of a client account or position as a result of good faith trading errors and omissions is not considered to be “compensation” for the purposes of this Policy.

“**event**” means a matter that is reportable under this Policy by a Member or Approved Person.

“**law**” includes, but is not limited to, all legislation of any jurisdiction and includes any rules, policies, regulations, rulings or directives of any securities regulatory authority of any jurisdiction.

“**member business**” means all business activities conducted by and through the Member, whether securities related or otherwise.

“**misrepresentation**” means:

- (i) an untrue statement of fact, either in whole or in part; or
- (ii) an omission to state a fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made.

“**regulatory body**” means, but is not limited to, any regulatory or self-regulatory organization that grants persons or organizations the right to deal with the public in any capacity.

“**regulatory requirements**” means, but is not limited to, the by-laws, rules, policies, regulations, rulings, orders, terms and conditions of registration, or agreements of any regulatory body in any jurisdiction.

“**securities**” includes exchange contracts, commodity futures contracts and commodity futures options.

“**service complaints**” means:

- (i) any complaint by a client which is founded on customer service issues and is not the subject of any securities law or regulatory requirements; or
- (ii) any complaint by a client as a result of a good faith trading error or omission.

### **3. General Reporting Requirements**

- 3.1. Events regarding Members that must be reported shall not be limited solely to securities related business, but shall include all member business.
- 3.2. Events regarding Approved Persons that are reported by Approved Persons to the Member shall not be limited solely to securities related business and member business, but shall include all business conducted by the Approved Person.
- 3.3. The obligation to report an event under this Policy is limited to events of which a Member or Approved Person has become aware regardless of the means by which the Member or Approved Person became aware of the event. If the reporting timeframes have expired before the Member or Approved Person has become aware of the event, the event shall be reported immediately after the Member or Approved Person has become aware of such event.
- 3.4. A Member is expected to be aware of events relating to Approved Persons by the receipt of reports from Approved Persons and by carrying out the Member's supervisory, monitoring and review obligations over the conduct of its business.
- 3.5. All requirements to report events regarding former Approved Persons are limited to events which occurred while the Approved Person was an Approved Person of the Member.
- 3.6. A Member shall designate a compliance officer at its head office (or another person at head office) to whom reports made by Approved Persons, as required by section 4, shall be submitted.
- 3.7. Documentation associated with each event required to be reported under this Policy shall be maintained for a minimum of 7 years from the resolution of the matter and made available to the MFDA upon request.

## **PART A APPROVED PERSON REPORTING REQUIREMENTS**

### **4. Approved Person Reporting Requirements**

- 4.1. An Approved Person shall report the following events to his or her current Member in such detail as required by the Member, within 2 business days:
  - (a) the Approved Person is the subject of a client complaint in writing;
  - (b) the Approved Person is aware of a complaint from any person, whether in writing or any other form, and with respect to him or herself, or any other Approved Person, involving allegations of:
    - (i) theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation, or unauthorized trading; or
    - (ii) engaging in securities related business outside of the Member.

- (c) whenever the Approved Person has reason to believe that he or she has or may have contravened, or is named as a defendant or respondent in any proceeding, in any jurisdiction, alleging the contravention of:
  - (i) any securities law; or
  - (ii) any regulatory requirements.
- (d) the Approved Person is charged with, convicted of, pleads guilty or no contest to, any criminal offence, in any jurisdiction;
- (e) the Approved Person is named as a defendant in a civil claim, in any jurisdiction, relating to the handling of client accounts or trading or advising in securities;
- (f) the Approved Person is denied registration or a license that allows the Approved Person to deal with the public in any capacity by any regulatory body, or has such registration or license cancelled, suspended or terminated, or made subject to terms and conditions;
- (g) the Approved Person becomes bankrupt or suspends payment of debts generally or makes an arrangement with creditors or makes an assignment or is declared insolvent;
- (h) there are garnishments outstanding or rendered against the Approved Person in any civil court in Canada.

## **PART B**

### **ELECTRONIC REPORTING REQUIREMENTS FOR MEMBERS**

#### **5. General Member Electronic Reporting Requirements**

- 5.1. Members shall report the following events to the MFDA, through an electronic reporting system provided by the MFDA, within 5 business days of the occurrence of the event, except for events reported under section 6.1(a) of this Policy, which must be reported to the MFDA within 20 business days.

#### **6. General Events to be Reported**

- 6.1. Members shall report to the MFDA:
  - (a) all client complaints in writing, against the Member or a current or former Approved Person, relating to member business, except service complaints;
  - (b) whenever a Member is aware, through a written or verbal complaint or otherwise, that the Member or any current or former Approved Person has or may have contravened any provision of any law or has contravened any regulatory requirement, relating to:

- (i) theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation, or unauthorized trading; or
  - (ii) engaging in securities related business outside of the Member.
- (c) whenever the Member, or a current or former Approved Person, is:
- (i) charged with, convicted of, pleads guilty or no contest to, any criminal offence, in any jurisdiction;
  - (ii) named as a defendant or respondent in, or is subject of, any proceeding or disciplinary action, in any jurisdiction, alleging contravention of any securities law;
  - (iii) named as a defendant or respondent in, or is the subject of, any proceeding or disciplinary action, in any jurisdiction, alleging contravention of regulatory requirements;
  - (iv) denied registration or a license that allows a person to deal with the public in any capacity by any regulatory body, or has such registration or license cancelled, suspended or terminated, or made subject to terms and conditions;
  - (v) named as a defendant in a civil claim, in any jurisdiction, relating to handling of client accounts or trading or advising in securities.
- (d) whenever an Approved Person becomes bankrupt or suspends payment of debts generally or makes an arrangement with creditors or makes an assignment or is declared insolvent;
- (e) there are garnishments outstanding or rendered against the Member or an Approved Person in any civil court in Canada.

## **7. Reporting of Resolution of Events**

- 7.1. Members shall update event reports previously reported to reflect the resolution of any event that has been reported pursuant to section 6.1 of this Policy and such resolutions shall include but not be limited to:
- (a) any judgments, awards, arbitration awards or orders and settlements in any jurisdiction;
  - (b) compensation paid to clients directly or indirectly, or any benefit received by clients from a Member or Approved Person directly or indirectly;
  - (c) any internal disciplinary action or sanction against an Approved Person by a Member;
  - (d) the termination of an Approved Person;

- (e) the results of any internal investigation conducted.

## **8. Other Events to be Reported**

- 8.1. For matters that are not the subject of an event report in section 6.1 of this Policy, the Member shall report to the MFDA:
- (a) whenever the Member has initiated disciplinary action that involves suspension, demotion or the imposition of increased supervision on an Approved Person;
  - (b) whenever the Member has initiated disciplinary action that involves the withholding of commissions or the imposition of a financial penalty in excess of \$1000;
  - (c) whenever an employment or agency relationship with an Approved Person is terminated and the Notice of Termination filed with the applicable securities commission discloses that the Approved Person was terminated for cause, or discloses information regarding internal discipline matters or restrictions for violations of regulatory requirements;
  - (d) whenever the Member or Approved Person has paid compensation to a client either directly or indirectly in an amount exceeding \$15,000.

## **PART C**

### **OTHER REPORTING REQUIREMENTS FOR MEMBERS**

## **9. Other Information Reporting Requirements for Member**

- 9.1. Members shall report the events under Part C of this Policy to the MFDA, in writing, within 5 business days of the occurrence of the event, except for events reported under section 10 of this Policy, which must be reported to the MFDA immediately.

## **10. Bankruptcy, Insolvency and Related Events**

- 10.1. Members must report to the MFDA whenever:
- (a) the Member is declared bankrupt;
  - (b) the Member makes a voluntary assignment in bankruptcy;
  - (c) the Member makes a proposal under any legislation relating to bankruptcy or insolvency;
  - (d) the Member is subject to, or instituting any proceedings, arrangement or compromise with creditors;
  - (e) a receiver and/or manager assumes control of the Member's assets.

## **11. Change of Name**

11.1. Members must report to the MFDA any change with respect to:

- (a) the legal name of the Member;
- (b) the names under which the Member carries on business (trade or style names);
- (c) trade, business or style names, other than that of the Member, used by Approved Persons. The name of the Approved Person, the trade or business name the Approved Person is using, and the Approved Person's branch location must be provided.

## **12. Change of Contact Information**

12.1. Members must notify the MFDA of any change in address for service or main telephone or fax number.

## **13. Change in Member Registration or Licensing**

13.1. Members must report to the MFDA any changes in the following:

- (a) type of registration or licensing with the relevant securities commission;
- (b) jurisdictions in which any dealer business of the Member is conducted; and
- (c) investment products traded or dealt in.

## **14. Changes in Organizational Structure**

14.1. Members must report to the MFDA any changes in a Member's directors, partners (in the case of a partnership), officers and compliance officers.

## **15. Other Business Activities**

15.1. Members must report to the MFDA any business, other than the sale of investment products, which the Member engages in or proposes to engage in.

## **16. Change of Auditor**

16.1. Members must report to the MFDA any change in a Member's auditor and/or audit engagement partner. A new Letter of Acknowledgement (Schedule H.1 of the MFDA Membership Application Package) must be submitted to the MFDA.



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**July 3, 2007**

## **MFDA POLICY NO. 3**

### **HANDLING CLIENT COMPLAINTS**

#### **Introduction**

This Policy establishes minimum industry standards for handling client complaints. A "complaint" shall be deemed to mean any written statement of a client or any person acting on behalf of a client alleging a grievance involving the conduct, business or affairs of the Member or any registered salesperson, partner, director or officer of the Member.

Although the definition of "complaint" refers to only written complaints, there may be instances where a Member receives a verbal complaint from a client which will warrant the same treatment as a written complaint. Such situations depend upon the nature and severity of the client's allegations and require the professional judgement of the Member's supervisory staff handling the complaint.

#### **Complaint Procedure**

Each Member must establish procedures to deal effectively with client complaints, which should include the following:

1. Each Member must acknowledge all client complaints.
2. Each Member must convey the results of its investigation of a client complaint in writing to the client in due course.
3. Client complaints involving the sales practices of a Member, its partners, directors, officers, salespersons or employees or agents must be handled by qualified sales supervisors/compliance staff.
4. ~~Each Member and Approved Person must 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.~~
5. Each Member must ensure that registered salespersons and their supervisors are made

aware of all complaints filed by their clients.

6. Each Member must put procedures in place so that senior management is made aware of complaints of serious misconduct and of all legal actions.
7. Each Member must maintain in a central place an orderly, up-to-date record of complaints together with follow-up documentation regarding such complaints, for regular internal/external compliance reviews. For each complaint, the record should include the following information:
  - the date of the complaint;
  - the complainant's name;
  - the name of the person who is the subject of the complaint;
  - the security or services which are the subject of the complaint; and
  - the date and conclusions of the decision rendered in connection with the complaint.

This record must be retained for a period of seven years from the date of receipt of the complaint.

8. Each Member must establish procedures to ensure that breaches of MFDA By-laws, Rules and Policies are subjected to appropriate internal disciplinary procedures.
9. When a Member finds complaints to be a significant factor, internal procedures and practices should be reviewed, with recommendations for changes to be submitted to the appropriate management level.

### **Complaint Reporting**

~~Each Member shall promptly report to the MFDA whenever such Member or partner, director, officer, salesperson, employee or agent of the Member, is the subject of any client complaint involving allegations of theft or misappropriation of funds or securities or of forgery.~~

### **Settlement Agreements And Disposition Of Claims**

~~Each Member shall report to the MFDA whenever:~~

- ~~(i) — such 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 of the judgement, award or settlement exceeds \$25,000; or~~
- ~~(ii) — 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 of the judgement, award or settlement exceeds \$15,000.~~

No Approved Person shall, without the prior written consent of the Member, enter into any settlement agreement with a client.

No Member or Approved Person of such Member may impose confidentiality restrictions on clients with respect to the MFDA or a 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.

## SCHEDULE "C"

### NOTIFICATION OF CHANGES IN REGISTRATION INFORMATION (Rule 1.2.5)

~~1.2.5 Notification of Changes in Registration Information. Every Member must notify the Corporation within five business days, and immediately in the case of the events in (c), of:~~

- ~~(a) any change in address for service in a province or territory in which it carries on business;~~
- ~~(b) material changes in any other information previously filed by or on behalf of the Member with the Corporation, including a charge or an indictment against such Member pursuant to any criminal laws or securities legislation; and~~
- ~~(c) the Member being declared bankrupt or making a voluntary assignment in bankruptcy or a proposal under any legislation relating to bankruptcy or insolvency, being subject to or instituting any proceedings, arrangement or compromise with creditors or having a receiver and/or manager appointed to hold its assets.~~

### 1.2.5 Reporting Requirements.

- (a) **Member Reporting.** Every Member must report to the Corporation such information, in a manner and within such period of time, as may be prescribed by the Corporation from time to time relating to:
  - (i) complaints, criminal, civil and other legal proceedings, regulatory proceedings, arbitrations, contraventions and potential contraventions of legal and regulatory requirements, disciplinary action by regulatory bodies or by Members against Approved Persons, settlements with and compensation paid to clients, registration or licensing by any regulatory body, bankruptcies, insolvencies, garnishments and related events;
  - (ii) investigations by the Member relating to any of the matters in sub-section (i); and
  - (iii) information relating to the business and operation of the Member and its Approved Persons.
- (b) **Approved Person Reporting.** Every Approved Person must report to the Member such information, in a manner and within such period of time, as may be prescribed by the Corporation from time to time relating to complaints, criminal, civil and other legal proceedings, regulatory proceedings, arbitrations, contraventions and potential contraventions of legal and regulatory requirements, disciplinary action by regulatory bodies, settlements with and compensation paid to clients, registration or licensing by any regulatory body, bankruptcies, insolvencies, garnishments and related events.
- (c) **Failure to Report.** A Member shall be liable for and pay to the Corporation levies or assessments in the amounts prescribed from time to time by the Corporation for the

failure of the Member or Approved Person to report any information required to be reported in the manner and within the period of time prescribed by the Corporation.

#### **NOTIFICATION OF TERMINATION OF APPROVED PERSONS (Rule 1.2.6)**

~~1.2.6 **Notification of Termination of Approved Persons.** Every Member must notify the Corporation within five business days of the termination of an employment or agency relationship with an Approved Person where the Notice of Termination filed with the applicable securities commission discloses that the Approved Person was dismissed for cause or discloses information regarding unresolved client complaints, internal discipline matters or restrictions for violation of regulatory requirements. The Member must comply with this requirement by filing a copy of the Notice of Termination prescribed by the applicable securities commission with the MFDA.~~