



Mutual Fund Dealers Association of Canada
Association canadienne des courtiers de fonds mutuels

Contact: Jason Bennett
Corporate Secretary
Phone: (416) 943-7431
Email: jbennett@mfd.ca

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MFDA Bulletin

Membership Information

For Distribution to Relevant Parties within your Firm

Update re Proposed amendments to By-law No. 1

By MFDA [Bulletin #0410-M](#) dated November 11, 2009 the MFDA advised Members of the decision of the Board of Directors to defer calling the Annual General Meeting of Members which had been proposed for December 3, 2009. This decision was based on the Notice of Request for Review of Decision filed with the British Columbia Securities Commission ("BCSC") by MFDA Member Partners in Planning Financial Services Inc. The result of the Request for Review and the proceedings associated with it has been that By-law No. 15 relating to MFDA's governance improvements, as confirmed by the Members at the Special Meeting held on October 2, 2009, has not yet become effective.

On November 25, 2009 the BCSC announced its intention to hold a hearing to consider the matters raised by the Request for Review on the basis that SROs such as the MFDA must operate and be seen to be operating "in a manner that leaves no room to question the integrity of their governance, procedures and practices". The BCSC stated that it had formed no opinion on the particular issues raised in the application. While MFDA accepts the principle that its governance must be unquestioned and any allegations otherwise be dealt with thoroughly and openly, the MFDA has full confidence in the integrity of its governance structure and its conduct and will vigorously defend against the allegations made by Partners in Planning.

As a separate but related process to the Request for Review, the staff of the BCSC have conducted a survey of many MFDA Members as to the basis on which proxies for the Special Meeting of Members held on October 2, 2009 were solicited. The results of that survey have been made available to the MFDA and its outside legal counsel. MFDA and its counsel are satisfied that there is no basis to be critical of the process followed. In particular, even assuming the worst in the (unfounded) allegations of Partners in Planning with respect to MFDA proxy solicitation activities, the outcome of the vote in approving By-law No. 15 would have been the same.

With respect to the matter of proxies for MFDA Members meetings, it is relevant to point out that there are no rules by statute, provincial securities legislation or the requirements of the Canadian Securities Administrators applicable to the MFDA. The MFDA believes that this regulatory gap should be addressed. Accordingly, the Board of Directors at its meeting on November 4, 2009 determined to pursue a policy development initiative with respect to proxy solicitation and has invited members of the CSA to participate. This initiative will proceed in any event of the Request for Review proceedings and Members will be consulted and invited to participate in the development of appropriate rules.

In the meantime, the MFDA is hopeful that By-law No. 15 will become effective shortly so that the governance improvements confirmed by a large majority of its Members – including the right to elect two Industry Directors – can be implemented. The Board of Directors at its meeting on December 16, 2009 has confirmed this objective and will continue to press for approval of By-law No. 15 as being in the public interest.

The Board of Directors of the MFDA have also been advised by Robert Wright, one of its Public Directors, that he does not intend to stand for re-election at the meeting of Members expected to be called shortly after the approval of By-law No 15. Mr. Wright, who has served the MFDA and public well through his years on the Board and as Chair, told the Board that he has made his contribution to the MFDA, an organization he is proud to have helped become the respected SRO that it has, and it is time to make way for new faces.