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MFDA Bulletin

Policy

For Distribution to Relevant Parties within your Firm

Amendments to MFDA By-law No. 1, Rules and Form 1 – *Financial Questionnaire and Report*

The MFDA held its 2010 Annual General and Special Meeting of Members (“AGM”) on December 1, 2010. At the AGM, Members approved certain amendments to the MFDA By-law No. 1, Rules and Form 1 – *Financial Questionnaire and Report*, as set out below. The amendments that have been approved at the AGM fall into the following categories: (1) amendments that received all requisite approvals and are now in effect; (2) amendments that received all requisite approvals and are subject to transition periods; (3) amendments that received Member approval but are awaiting approval of the recognizing securities commissions; and (4) Rule 2.4.1 (Payment of Commissions to Unregistered Corporation) that became effective on March 29, 2010 and received Member ratification at the 2010 AGM.

1. Amendments in Effect

The amendments discussed in this section have received all requisite approvals and are now in effect.

A. Amendments to Section 24.A.5 (Ombudservice – Member to Provide Written Material to Client) of MFDA By-law No. 1

Section 24.A.5 of By-law No. 1 has been repealed as amended Policy No. 3 *Complaint Handling, Supervisory Investigations and Internal Discipline*, which became effective on February 1, 2010, now includes the requirement mandated by this section. Under Policy No. 3, Members must, on account opening, provide clients with a copy of the Client Complaint Information Form (“CCIF”), as approved by MFDA staff, which describes complaint escalation options, including complaining to the Ombudsman for Banking Services and Investments. Where the CCIF is required to be delivered (i.e. in respect of complaints that must be addressed in

accordance with Parts I and II of the Policy), it must be provided to the client along with both the initial and substantive response letters. In addition, the substantive response letter must include a specific reminder to the complainant that they have the right to consider other complaint resolution options, including presenting their complaint to the Ombudsman. The amended By-law is attached as Schedule “A”.

B. Amendments to Section 35 (No Actions Against the Corporation) of MFDA By-law No. 1

The amendments to section 35 of By-law No. 1 are intended to: (i) ensure that the MFDA IPC and its directors, officers and personnel are adequately protected in the discharge of their investor protection mandate from legal actions by MFDA Members, Approved Persons or other persons under the jurisdiction of the MFDA; and (ii) provide for, within the MFDA By-laws, the terms of the relationship between the MFDA and MFDA IPC and existing MFDA and Member obligations to the MFDA IPC. The amended By-law is attached as Schedule “B”.

C. Amendments to Rule 1.1.6 (Introducing and Carrying Arrangement)

Amendments to Rule 1.1.6(b)(viii) are intended to clarify that either the introducing dealer or carrying dealer can prepare or develop the disclosure by removing the reference to the introducing dealer advising the client of the relationship. The amendments require the introducing dealer to ensure that the client receives the requisite disclosure document on account opening.

Amendments to Rule 1.1.6(b)(viii) also remove the requirement that, in the case of a Level 2 introducing dealer, the client’s acknowledgment of disclosure reflect that the introducing dealer has advised the client that the carrying dealer shall be responsible for and shall maintain in its name any trust accounts established in respect of cash received from clients, and that all client cheques shall be payable to the carrying dealer. Under Rule 2.2.5(c) (Relationship Disclosure), the Member is required to provide the client with disclosure describing the Member’s policies and procedures regarding the receipt and handling of client cash and cheques. In the case of a Level 2 dealer, the disclosure must include an explanation that all client cheques shall be payable to the issuer or carrying dealer, as applicable. Given that Rule 2.2.5(c) is subject to a transition period, this requirement with respect to a Level 2 introducing dealer will not be deleted from Rule 1.1.6(b)(viii) until September 28, 2011, when Rule 2.2.5(c) becomes effective.

Amendments to Rule 1.1.6(b)(x) allow Level 1 and 2 dealers to use the annual disclosure option set out in that Rule as an alternate way to fulfill the requirements of Rule 1.1.6(b)(ix).

Subsection 1.1.6(b)(xii) provides that the carrying dealer need not send a written confirmation of a trade in a security of a mutual fund where the manager of the mutual fund sends the client a written confirmation containing the information required to be sent under Rule 5.4.3. The amended Rule is attached as Schedule “C”.

D. Amendments to Rule 1.2 (Proficiency Requirements)

The MFDA does not have authority to grant registration. Given that proficiency requirements for registration are contained in securities legislation, it is not necessary for such requirements to be maintained in MFDA Rules. Accordingly, amendments to Rule 1.2 remove such requirements from the Rules by deleting Rules 1.2.1(a) and 1.2.3, that is, previous Rules addressing proficiency requirements for Approved Persons and trading partners, directors, officers and compliance officers.

The individual branch manager category of registration has not been retained in National Instrument 31-103 *Registration Requirements and Exemptions* (“NI 31-103”); however, it is being retained under MFDA Rules. As a consequence, the proficiency requirements for branch managers would remain in MFDA Rules and would be consolidated in Rule 2.5.5, as described below. In addition, the requirements contained in previous Rule 1.2.4 with respect to currency of courses have been moved to Rule 2.5.5. Amended Rule 1.2 is attached as Schedule “D”.

E. Amendments to Rule 2.5 (Minimum Standards of Supervision)

Rule 2.5 requires Members to designate branch managers and compliance officers and outlines their respective responsibilities and other Member obligations with respect to supervision. Consequential amendments were required to the Rule as a result of new requirements under NI 31-103.

Description of Amendments

- **Rule 2.5.2 (Ultimate Designated Person)** – this new Rule adds the requirement for designation of the ultimate designated person (“UDP”), specifying who the UDP must be and UDP responsibilities.
- **Rule 2.5.3 (Chief Compliance Officer)** (former Rule 2.5.2) – the Rule has been amended to require designation of a Chief Compliance Officer (“CCO”) and to revise the responsibilities of this individual to conform to those required under NI 31-103.
- **Rule 2.5.4 (Access to Board)** – this new Rule has been added to require the Member to provide its UDP and its CCO with direct access to the board of directors or partners.
- **Rule 2.5.5 (Branch Manager)** (former Rule 2.5.3) – conforming amendments have been made to make the wording of the Rule consistent with NI 31-103 and to include proficiency requirements for branch managers.
- **Rule 2.5.6 (Currency of Examination)** (former Rule 1.2.4) – conforming amendment has been made to make the wording consistent with NI 31-103.

The amended Rule is attached as Schedule “E”.

F. Amendments to Rule 2.11 (Complaints)

Amendments delete the word “client” from the Rule to reflect the fact that, under the definition of “complaint” in Policy No. 3, a “complaint” is not limited to a client complaint in all circumstances, such as where the allegations are of a serious nature. The requirement to keep a log of client complaints has been removed from the Rule as this requirement is now part of Policy No. 3. The amendments also clarify that the MFDA may set minimum standards for complaint handling which are set out in Policy No. 3. The amended Rule is attached as Schedule “F”.

G. Amendments to Rule 5.3 (Client Reporting)

Amendments to Rule 5.3 have been made to clarify the current wording and intent of Rule 5.3 in response to comments from Members. The amended Rule is attached as Schedule “G”.

New Rule 5.3.5 (Account Performance Reporting) is discussed below, as it is subject to a transition period.

H. Amendments to Rule 5.6 (Record Retention)

Amendments to Rule 5.6 have been made to clarify that records must be kept for seven years from the date they are created. These amendments were made to conform with recordkeeping requirements under NI 31-103. The amended Rule is attached as Schedule “H”.

2. Amendments Subject to Transition Periods

The amendments discussed in this section have received all requisite approvals and are subject to transition periods.

A. Amendments to Rule 2.2 (Client Accounts)

Amendments to Rule 2.2 were drafted to address issues relating to clarity of the Member/client relationship under the Client Relationship Model (“CRM”) project, as well as various other regulatory issues identified by MFDA Compliance and Enforcement staff. The amendments include new Rule 2.2.5 which requires that, on account opening, all clients be provided with certain core information about the nature of their relationship with the Member and its Approved Persons. The information will address fundamental questions and clarify certain key concepts that are at the root of many complaints MFDA staff has observed.

The amendments also require that the suitability of the investments held in each client’s account be assessed when certain triggering events occur. Amendments to Rule 2.2.1 require that the suitability of investments in each client account be assessed whenever:

- the client transfers assets into an account at the Member; or
- the Member or Approved Person becomes aware of a material change to the client’s KYC information.

In addition, Approved Persons will be expected to review the suitability of investments in any account where the account has been re-assigned to the Approved Person from another registered salesperson within the Member firm.

Amendments have also been made to Rule 2.2.4 regarding the updating of client KYC information, providing greater detail as to the client authorization, verification and approval requirements for such changes.

Other minor amendments have been made to clarify the current wording and intent of Rule 2.2 to ensure the amended Rule is consistent with other Rules and Policies to be amended. New requirements will be subject to transition periods described in [Bulletin #0459-P](#). The amended Rule is attached as Schedule “I”.

B. Amendments to Rule 2.8 (Client Communications)

Amendments to Rule 2.8.3 are intended to address issues relating to performance reporting under the CRM project, as well as various other regulatory issues identified by MFDA Compliance and Enforcement staff. Rule 2.8.3 has been amended to clarify that where a client communication discloses a rate of return, the rate of return must be calculated in accordance with standard industry practices. Further, the amendments clarify the Member’s supervisory obligations where such communications are issued by an Approved Person. The amendments will be subject to transition periods described in [Bulletin #0459-P](#). The amended Rule is attached as Schedule “J”.

C. New Rule 5.3.5 (Account Performance Reporting)

Amendments to Rule 5.3 and new Rule 5.3.5 are intended to address the performance reporting component of the CRM project, as well as various other regulatory issues identified by MFDA Compliance and Enforcement staff. The new Rule will require that all clients be provided with account performance reporting on an annual basis, covering at least a 12-month period. Members may satisfy this requirement by either providing:

- the total market value of the account as at the start of the period covered by the report;
- assets deposited/withdrawn during the period of the report;
- the total market value of the account as at the end of the period covered by the report; and
- gain or loss in the account as at the end of the period of the report

or annualized percentage rate of return information presented in accordance with the requirements of Rule 2.8.3. New Rule 5.3.5 (Account Performance Reporting) will be subject to transition periods described in [Bulletin #0459-P](#).

The new Rule is attached as Schedule “K”.

3. Amendments that Are Awaiting Approval of the Recognizing Securities Commissions

The amendments discussed in this section have received Member approval but are awaiting approval of the recognizing securities commissions.

A. New Rule 2.4.4 (Transaction Fees or Charges) and Amendments to Rule 5.1 (Requirement for Records)

New Rule 2.4.4 will require that, prior to the acceptance of an order, the Member inform the client of any sales charge, service charge or any other fees or charges to be deducted in respect of the transaction. Conforming changes have been made to Rule 5.1(b) by adding subsection (iv), which will require Members to maintain records evidencing that the client was informed of all fees and charges in accordance with Rule 2.4.4. For more information, please refer to [Bulletins #0439-P Proposed New MFDA Rule 2.4.4 \(Transaction Fees or Charges\) and Proposed Amendments to MFDA Rule 5.1 \(Requirement for Records\)](#) and [#0455-P Proposed New MFDA Rule 2.4.4 \(Transaction Fees and Charges\) and Proposed Amendments to MFDA Rule 5.1 \(Requirement for Records\)](#).

B. Amendments to Rule 3.1.1 (Capital – Minimum Levels)

Proposed amendments to Rule 3.1.1 are intended to ensure that MFDA Members registered in other registration categories under securities legislation are subject to consistent minimum capital requirements under MFDA Rules and NI 31-103. For more information, please refer to [Bulletin #0445-P Proposed Amendments to MFDA Rule 3.1.1 \(Capital – Minimum Levels\) and MFDA Form 1 – Financial Questionnaire and Report](#).

C. Amendments to MFDA Form 1 – Financial Questionnaire and Report

The Canadian Accounting Standards Board has confirmed that International Financial Reporting Standards (“IFRS”) will replace current Canadian standards and interpretations as Canadian GAAP for Publicly Accountable Enterprises, effective for fiscal years beginning on or after January 1, 2011. Proposed amendments to Form 1 – *Financial Questionnaire and Report* (“Form 1”) are intended to align financial reporting required under Form 1 with IFRS and capital requirements in NI 31-103. For more information please refer to [Bulletin #0445-P Proposed Amendments to MFDA Rule 3.1.1 \(Capital – Minimum Levels\) and MFDA Form 1 – Financial Questionnaire and Report](#).

D. Amendments to Rule 3.3.2 (Segregation of Client Property – Cash)

The proposed amendments are intended to remove the existing restrictions in Rule 3.3.2 to hold client cash for investment in mutual funds separately from client cash for other investments, while maintaining existing requirements to segregate client cash held in trust from Member property. In addition, the proposed amendments would permit Members discretion as to whether they will pay interest on client cash held in trust, subject to conditions, including a disclosure requirement on account opening, as to whether or not such interest will be paid and if so, at what

rate. For more information, please refer to [Bulletin #0438-P](#) *Proposed Amendments to MFDA Rule 3.3.2 (Segregation of Client Property – Cash)*.

4. Amendments to MFDA Rule 2.4.1 (Payment of Commissions to Unregistered Corporation)

Amendments to Rule 2.4.1 became effective on March 29, 2010 and received Member ratification at the 2010 AGM. Amendments to Rule 2.4.1 permit Members to pay remuneration in respect of business conducted by an Approved Person on behalf of a Member to a corporation that is itself not registered under securities legislation, provided the conditions set out in subsection 2.4.1(b) are met. For more information, please refer to Member Regulation Notice [MR-0072](#) *Payment of Commissions to Unregistered Corporation*, issued March 29, 2010.

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Schedule "A"

~~24.A.5 Member to Provide Written Material to Clients~~

~~Each Member shall provide to new clients, and to clients who submit written complaints to the Member, a copy of the written material approved by the Corporation which describes the ombudservice approved by the Board of Directors pursuant to By law 24.A.1~~

Schedule "B"

35. NO ACTIONS AGAINST THE CORPORATION

No Member (including in all cases a Member whose rights and privileges have been suspended or terminated and a Member who has been expelled from the Corporation or whose Membership has been forfeited), ~~and~~ Approved Person or any other person who is subject to the jurisdiction of the Corporation, shall be entitled, subject to the provisions of Section 26, to commence or carry on any action or other proceedings against the Corporation or against the Board of Directors, the Executive Committee, any Regional Council, any Committee thereof, or against any officer, employee or agent of the Corporation or member or officer of any such Board of Directors, Committee or Council or against any Member's auditor, or against MFDA Investor Protection Corporation, its Board of Directors, any of its committees or its officers, employees and agents, in respect of any penalty imposed or any act or omission done or omitted under the provisions of and in compliance with or intended compliance with the provisions of any By-law, Rule or Policy and, in addition, in the case of MFDA Investor Protection Corporation, its letters patent, by-laws and policies, and in any case, under regulatory directives or agreements thereunder.

35.A MFDA Investor Protection Fund

35A.1. The Corporation is authorized to enter into and perform its obligations under such agreements or other arrangements with MFDA Investor Protection Fund ("IPC") as may be, in the discretion of the Board of Directors, consistent with the objects of the Corporation including, without limitation, the Administration Agreement dated as of July 1, 2005, made between the Corporation and IPC, as the same may be amended from time to time (the "Administration Agreement"). The President, his or her staff or any other person designated by the Board of Directors shall be authorized to execute and deliver any such agreements, or make any such arrangements, and to do all acts and things as may be necessary to permit the Corporation to exercise its rights or perform its obligations thereunder.

35A.2. In respect of the Administration Agreement or other agreements and arrangements entered into by the Corporation in accordance with Section 35A.1 from time to time, each Member:

- (a) shall promptly pay to the Corporation all regular and special assessments levied or prescribed by IPC in respect of any Member or Members;
- (b) shall provide to IPC such information as is contemplated to be provided by Members in connection with the assessment of the financial condition of Members or risk of loss to IPC;
- (c) acknowledges and consents to the exchange between the Corporation and IPC of information relating to Members, their partners, directors, officers, shareholders, employees and agents, customers or any other persons permitted by law in accordance with any information sharing agreements or arrangements made by them;

- (d) shall permit IPC to conduct reviews of such Member or designated groups of Members as contemplated by the Administration Agreement or other arrangements and to fully cooperate with IPC, and its staff and advisers, in connection with such reviews including, without limitation, the exercise by IPC of such powers as are available to the Corporation and its officers, staff or other designates pursuant to Sections 21, 22.1 and 22.2;

- (e) shall comply with such actions as IPC may direct the Corporation to take with respect to a Member, or with such actions as IPC may take on behalf of the Corporation as authorized.

Schedule "C"

1.1.6 Introducing and Carrying Arrangement

(b) **Terms of Arrangement.** A Member may enter into an agreement with another Member in accordance with Rule 1.1.6(a) if it satisfies the following requirements:

(viii) Disclosure and Acknowledgement on Account Opening. At the time of opening each client account, the introducing dealer shall ensure that the client receives written disclosure explaining ~~advise the client of the~~ introducing dealer's relationship to the carrying dealer and ~~of the~~ relationship between the client and the carrying dealer and, in the case of a Level 1 ~~or 2~~ introducing dealer, shall obtain from the client an acknowledgement in writing to the effect that such disclosure advice has been received by the client given. ~~In the case of a Level 2 introducing dealer, the acknowledgement shall reflect that the introducing dealer has advised the client that the carrying dealer shall be responsible for and shall maintain in its name any trust accounts established in respect of cash received from clients and that all client cheques shall be payable to the carrying dealer;~~

(ix) Contracts, Account Statements, Confirmations and Client Communications. The name and role of each of the carrying dealer and the introducing dealer shall be shown on all contracts, account statements, confirmations and, in the case of a Level 1 introducing dealer, all client communications (as defined in Rule 2.8.1) and advertisements and sales communications (as defined in Rule 2.7.1) sent by either the introducing dealer or the carrying dealer in respect of accounts carried by the carrying dealer. In the case of a Level 1 introducing dealer, the name and role of the carrying dealer shall appear in at least equal size to that of the introducing dealer. The use of business or trade or style names shall be in accordance with Rule 1.1.7 as applicable; ~~The carrying dealer shall be responsible for sending account statements and confirmations to clients introduced to it by the introducing dealer as required by the By laws and Rules to the extent such statements and confirmations relate to trading or account positions in respect of which the carrying dealer has provided services;~~

(x) Annual Disclosure. A Level 1, 2, 3 or ~~Level 4~~ introducing dealer may comply with the disclosure requirements under paragraph (ix) by providing written disclosure at least annually to each of its clients whose accounts are being carried by the carrying dealer, outlining the relationship between the introducing dealer and the carrying dealer and the relationship between the client and the carrying dealer;

(xi) Clients Introduced to the Carrying Dealer. Each client introduced to the carrying dealer by the introducing dealer shall be considered a client of the carrying dealer for the purposes of complying with the By-laws and Rules to the extent of the services provided by the carrying dealer; ~~and~~

(xii) Responsibility for Reporting. The carrying dealer shall be responsible for sending account statements and confirmations to clients introduced to it by the introducing dealer as required by the By-laws and Rules to the extent such statements and confirmations relate to trading or account positions in respect of which the carrying dealer has provided services. ~~The carrying~~

dealer need not send a written confirmation of a trade in a security of a mutual fund where the manager of the mutual fund sends the client a written confirmation containing the information required to be sent under Rule 5.4.3; and

(xiii) Responsibility for Compliance. Unless otherwise specified in Rule 2 or in this Rule 1.1.6, the introducing dealer which is a Level 1 Dealer and its carrying dealer shall be jointly and severally responsible for compliance with the By-laws and Rules for each account introduced to the carrying dealer by the introducing dealer, and in all other cases the introducing dealer shall be responsible for such compliance, subject to the carrying dealer being also responsible for compliance with respect to those functions it agrees to perform under the arrangement entered into under this Rule 1.1.6.

Schedule “D”

1.2 INDIVIDUAL QUALIFICATIONS

~~1.2.1 (a) **Course Requirements.** Each Approved Person who is a salesperson and who trades or deals in securities for the purposes of any applicable legislation in respect of a Member shall have successfully completed any one of the following courses:~~

- ~~(i) the Canadian Securities Course offered by the Canadian Securities Institute;~~
- ~~(ii) the Canadian Investment Funds Course offered by the Investment Funds Institute of Canada;~~
- ~~(iii) the Investment Funds in Canada Course offered by the Institute of Canadian Bankers;~~
- ~~(iv) the Principles of Mutual Funds Course formerly offered by the Trust Companies Institute; or~~
- ~~(v) to the extent the Approved Person trades or deals in securities in the Province of Quebec only, the courses entitled Placements des particuliers (CEGEP) and Cours sur les fonds distincts et fonds communs de placement offered by the Canadian Securities Institute.~~

1.2.1 Salespersons

~~(b)(a) **Compliance with MFDA Requirements.** Each Member shall ensure that any Approved Person who conducts any business on behalf of the Member executes and delivers to the Member an agreement in a form as prescribed from time to time by the Corporation agreeing, among other things, to be subject to, comply with and be bound by the By-laws and Rules.~~

~~(e)(b) **Training and Supervision.** Upon commencement of trading or dealing in securities for the purposes of any applicable legislation on behalf of a Member, all Approved Persons who are salespersons shall complete a training program within 90 days of such commencement and a concurrent six month supervision period in accordance with such terms and conditions as may be prescribed from time to time by the Corporation, unless he or she has completed a training program and supervision period in accordance with this Rule with another Member or was licensed or registered in the manner necessary, and is in good standing, under applicable securities legislation to trade in mutual fund securities prior to the date of this Rule becoming effective.~~

~~(d)(c) **Dual Occupations.** An Approved Person may have, and continue in, another gainful occupation, provided that:~~

- ~~(i) *Permitted by legislation.* The securities commission in the jurisdiction in which the Approved Person carries on or proposes to carry on business specifically permits him or her to devote less than his or her full time to the business of the Member for which he or she acts on behalf of;~~

- (ii) *Not prohibited.* The securities commission in the jurisdiction in which the Approved Person carries on or proposes to carry on business does not prohibit an Approved Person from engaging in such gainful occupation;
- (iii) *Member approval.* The Member for which the Approved Person carries on business either as an employee or agent is aware and approves of the Approved Person engaging in such other gainful occupation;
- (iv) *Member procedures.* Such Member establishes and maintains procedures to ensure continuous service to clients and to address potential conflicts of interest;
- (v) *Conduct unbecoming.* Any such gainful occupation of the Approved Person must not be such as to bring the Corporation, its Members or the mutual fund industry into disrepute;
- (vi) *Disclosure.* Clear disclosure is provided to clients that any activities related to such other gainful occupation are not business of the Member and are not the responsibility of the Member; and
- (vii) *Financial planning.* Any Approved Person that engages in financial planning services otherwise than through or on behalf of a Member must:
 - (A) Regulations - provide such services through another person that is either regulated by a governmental authority or statutory agency or subject to the rules and regulations of a widely-recognized professional association;
 - (B) Legislation - comply with the requirements of any applicable legislation in connection with the services;
 - (C) Access - ensure that, subject to any applicable legislation, the Member and the Corporation have access to financial plans prepared on behalf of the clients of the Member by its Approved Persons; and
 - (D) Proficiency - have satisfied any applicable proficiency requirements by securities regulatory authorities having jurisdiction.

~~(e)~~(d) **Business Titles.** No Approved Person shall hold him or herself out to the public in any manner including, without limitation, by the use of any business name or designation of qualifications or professional experience that deceives or misleads, or could reasonably be expected to deceive or mislead, a client or any other person as to the proficiency or qualifications of the Approved Person under the Rules or any applicable legislation.

~~1.2.2~~ **Branch Managers**

~~(a)~~**Proficiency Requirements.** An individual may not be designated by the Member as a branch manager pursuant to Rule 2.5.3(a) or an alternate branch manager pursuant to Rule 2.5.3(c) unless the individual has:

~~(i) been licensed or registered previously under applicable securities legislation as a trading partner, director, officer or compliance officer of a mutual fund dealer; or~~

~~(ii) has successfully completed any one of the following courses:~~

~~(A) the Canadian Securities Course offered by the Canadian Securities Institute,~~

~~(B) the Canadian Investment Funds Course offered by the Investment Funds Institute of Canada, or~~

~~(C) the Investment Funds in Canada Course offered by the Institute of Canadian Bankers~~

~~and, any one of the following courses:~~

~~(D) the Branch Managers' Course offered by the Canadian Securities Institute~~

~~(E) the Mutual Fund Branch Managers' Course offered by the Investment Funds Institute of Canada, or~~

~~(F) the Branch Compliance Officers Course offered by the Institute of Canadian Bankers.~~

~~(b) **Experience Requirements.** In addition to the requirements set out in Rule 1.2.2(a), each branch manager, except alternate branch managers, in respect of a Member shall:~~

~~(i) have acted as a salesperson, trading partner, director, officer or compliance officer registered under the applicable securities legislation for a minimum of two years; or~~

~~(ii) have a minimum of two years of equivalent experience to that of an individual described in Rule 1.2.2(b)(i).~~

~~1. **Registration.** Each Branch Manager, in addition to the requirements in Rule 1.2.2(a) shall be registered, licensed or approved as a branch manager under the applicable securities legislation and comply with the requirements of such legislation in connection therewith.~~

~~1.2.3 **Trading Partners, Directors, Officers and Compliance Officers**~~

~~(a) **Definition.** In this Rule, "trading partner, director or officer" means each partner, director or officer who is required to be registered and/or licensed under applicable securities legislation.~~

~~(b) **Course Requirements.** Each trading partner, director, officer and designated compliance officer of a Member shall have successfully completed any one of the following courses:~~

~~(i) the Canadian Securities Course offered by the Canadian Securities Institute;~~

~~(ii) the Canadian Investment Funds Course offered by the Investment Funds Institute of Canada; or~~

~~(iii) the Investment Funds in Canada Course offered by the Institute of Canadian Bankers;~~

~~and, any one of the following:~~

~~(iv) the Partners', Directors' and Senior Officers' Qualifying Examination offered by the Canadian Securities Institute; or~~

~~(v) the Mutual Fund Officers', Partners' and Directors' Course offered by the Investment Funds Institute of Canada.~~

~~(c) **Registration.** Each trading partner, director, officer and compliance officer of a Member shall be registered and/or licensed in the appropriate category under applicable securities legislation and shall comply with the requirements of such legislation in connection therewith.~~

~~1.2.4 Currency of Courses.~~

~~(a) For the purposes of Rules 1.2.1(a), 1.2.2(a) or 1.2.3(b):~~

~~(i) the courses or examinations must have been successfully completed; or~~

~~(ii) the individual must have been registered/licensed under applicable securities legislation in the equivalent category;~~

~~within three years of the relevant time for qualification or such longer period as the Corporation may determine if it is satisfied based on the individual's experience that his or her knowledge and proficiency remains relevant and current.~~

~~(b) Notwithstanding subsection (a), if an individual completes a course for which another course is a prerequisite, the course which is a prerequisite need not have been completed within the three year period.~~

~~1.2.5² 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.

Schedule “E”

2.5 MINIMUM STANDARDS OF SUPERVISION

2.5.1 **Member Responsibilities.** Each Member is responsible for establishing, implementing and maintaining policies and procedures to ensure the handling of its business is in accordance with the By-laws, Rules and Policies and with applicable securities legislation.

2.5.2 Ultimate Designated Person

(a) Designation. Each Member must designate an individual registered under applicable securities legislation as an “ultimate designated person” who must be:

- (i) the chief executive officer or sole proprietor of the Member;
- (ii) an officer in charge of a division of the Member, if dealing in mutual funds occurs only within that division; or
- (iii) an individual acting in a capacity similar to that of an officer described in (i) or (ii).

(b) Responsibilities. The ultimate designated person must:

- (i) supervise the activities of the Member that are directed towards ensuring compliance with the By-laws, Rules and Policies and with applicable securities legislation by the Member and its Approved Persons; and
- (ii) promote compliance with the By-laws, Rules and Policies and with applicable securities legislation by the Member and its Approved Persons.

2.5.23 Chief Compliance Officer

(a) **Designation.** Each Member must designate ~~an individual registered under applicable securities legislation trading officer~~ as a “chief compliance officer” who must be:

- (i) an officer or partner of the Member; or
- (ii) the sole proprietor of the Member.

~~who shall be or report to a member of senior management such as the Member's chief executive officer, chief operating officer or chief financial officer.~~

(b) **Responsibilities.** The chief compliance officer must:

- (i) establish and maintain policies and procedures for assessing compliance by the Member and its Approved Persons with the By-laws, Rules and Policies and with applicable securities legislation;

- (ii) monitor and assess compliance by the Member and its Approved Persons with the By-laws, Rules and Policies and with applicable securities legislation;
- (iii) report to the ultimate designated person of the Member as soon as possible if the chief compliance officer becomes aware of any circumstances indicating that the Member, or any of its Approved Persons may be in non-compliance with the By-laws, Rules and Policies and with applicable securities legislation and any of the following apply:
 - (A) the non-compliance reasonably creates a risk of harm to a client;
 - (B) the non-compliance reasonably creates a risk of harm to the capital markets;
 - (C) the non-compliance is part of a pattern of non-compliance; and
- (iv) submit a report to the board of directors or partners, as frequently as necessary and not less than annually, for the purpose of assessing compliance by the Member and its Approved Persons with the By-laws, Rules and Policies and with applicable securities legislation.

~~The compliance officer shall be responsible for monitoring adherence by the Member and any person conducting business on account of the Member to the By-laws, Rules and Policies, including, without limitation, standards of business conduct under Rule 2 and applicable securities legislation requirements. The compliance officer or the individual to whom the compliance officer reports is required to report on the status of compliance at the Member to the board of directors or partners of the Member as necessary, and at least on an annual basis. It shall be the responsibility of the board of directors or partners of the Member to act on the annual report and to rectify any compliance deficiencies noted in the report.~~

- (c) **Alternates.** In the event that a chief compliance officer is temporarily absent or unable to perform his or her responsibilities, a Member shall designate one or more alternates who must be qualified as chief compliance officers pursuant to the applicable securities legislation~~Rule 1.2.3~~ and who shall carry out the responsibilities of the chief compliance officer.

2.5.4 Access to Board. The Member must permit its ultimate designated person and its chief compliance officer to directly access the board of directors or partners of the Member at such times as the ultimate designated person or the chief compliance officer may consider necessary or advisable in view of his or her responsibilities.

2.5.35 Branch Manager

- (a) **Designation.** Each Member ~~shall~~must designate ~~an person~~an individual qualified as a branch manager pursuant to paragraph (b) Rule 1.2.2 for each branch office (as defined in By-law 1.1) of the Member. The Member is not required to designate a branch manager for a sub-branch office who is normally present at the office,

provided that a branch manager who is not normally present at such sub-branch office, or a trading partner, director or officer or a compliance officer designated as the branch manager for such sub-branch office, supervises its business at the sub-branch office in accordance with the By-laws and Rules.

(b) **Proficiency Requirements.** An individual may not be designated by the Member as a branch manager pursuant to paragraph (a) or an alternate branch manager pursuant to paragraph (e) unless the individual has:

(i) met the requirements for a salesperson as prescribed under applicable securities legislation and has passed any one of the following examinations:

(A) the Branch Managers Course Exam offered by the CSI Global Education Inc.;

(B) the Mutual Fund Branch Managers' Examination Course Exam offered by the IFSE Institute; or

(C) the Branch Compliance Officers Course Exam offered by the CSI Global Education Inc.

(c) **Experience Requirements.** In addition to the requirements set out in Rule 2.5.5(b), each branch manager, except alternate branch managers, in respect of a Member shall:

(i) have acted as a salesperson, trading partner, director, officer or compliance officer registered under the applicable securities legislation for a minimum of two years; or

(ii) have a minimum of two years of equivalent experience to that of an individual described in paragraph (i).

(d) **Responsibilities.** ~~It is the responsibility of a~~The branch manager to~~must:~~

(i) supervise the activities of the Member at a branch or sub-branch that are directed towards ensuring compliance with the By-laws, Rules and Policies and with applicable securities legislation by the Member and its Approved Persons ensure that the business conducted on behalf of the Member by an Approved Person and other employees and agents at the branch is in compliance with applicable securities legislation and the By-laws and Rules; and

(ii) supervise the opening of new accounts and trading activity at the branch office.

~~(e)~~(e) **Alternates.** In the event that a branch manager is temporarily absent or unable to perform his or her responsibilities, a Member shall designate one or more alternate branch managers who must be qualified as branch managers pursuant to paragraph (b)Rule 1.2.2(a) and who shall carry out the responsibilities of the branch manager, but are not required to be normally present at the branch office.

- 2.5.6 **Currency of Examination.** For the purposes of the Rules, an individual is deemed to have not passed an examination or successfully completed a program unless the individual has done so within 36 months before the date the individual applied for registration or such longer period as may be specified by and subject to relevant requirements as the Corporation may determine if it is satisfied based on the individual's experience that his or her knowledge and proficiency remains relevant and current.
- 2.5.47 **Maintenance of Supervisory Review Documentation.** The Member must maintain records of all compliance and supervisory activities undertaken by it and its partners, directors, officers, compliance officers and branch managers pursuant to the By-laws and Rules.
- 2.5.58 **No Delegation.** No Member or director, officer, partner, compliance officer, branch manager or alternate branch manager shall be permitted to delegate any supervision or compliance responsibility under the By-laws or Rules in respect of any business of the Member, except as expressly permitted pursuant to the By-laws and Rules.

Schedule “F”

Rule 2.11 (Complaints)

Every Member ~~shall maintain a log of client complaints and~~ shall establish written policies and procedures for dealing with ~~client complaints~~ which ensure that such complaints are dealt with promptly and fairly, and in accordance with the minimum standards prescribed by the Corporation from time to time.

Schedule “G”

5.3 CLIENT REPORTING

5.3.1 Delivery of Account Statement

- (a) Each Member shall, in a timely manner send an account statement to each client in accordance with the following minimum standards:
 - (i) once every 12 months for a client name account;
 - (ii) once a month for nominee name accounts of clients where there is an entry during the month and a cash balance or security position; and
 - (iii) quarterly for nominee name accounts where no entry has occurred in the account and there is a cash balance or security position at the end of the quarter.
- (b) A Member may not rely on any other person (including an Approved Person) to send account statements as required by this Rule.
- (c) Notwithstanding the provisions of 5.3.1(b), a Member may rely on the trustee administering a self-directed registered plan to send the account statement required by paragraph (a)(i) where the following conditions are met:
 - (i) The Member does not act as agent for the trustee for the registered plans;
 - (ii) The trustee meets the definition of “Acceptable Institution” as defined in Form 1;
 - (iii) There is a services agreement in place between the Member and the trustee which complies with the requirements of MFDA Rule 1.1.3 and provides that the trustee is responsible for sending account statements to clients of the Member that comply with the requirements of MFDA Rule 5;
 - (iv) There is clear disclosure about which trades are placed by the Member;
 - (v) Clear disclosure must be provided on the account statement regarding which securities positions referred to on the statement are eligible for coverage by the MFDA Investor Protection Corporation and which are not (once the Corporation is offering coverage);
 - (vi) The Member’s full legal name must appear on the account statement together with the name of the trustee; and
 - (vii) The Member must receive copies of the statements, or have other systems in place, to ensure that the information contained therein on the statements matches its own information regarding the transactions it executes.
- (d) Notwithstanding the provisions of Rule 5.3.1(b), 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, the Member may rely on the affiliated fund

manager to send the account statement required by paragraph (a)(i) for that specific account.

5.3.2 Automatic Payment Plans. Notwithstanding the provisions of Rule 5.3.1(a)(ii), where a Member holds client assets in nominee name and the only entry in the client's account in a month relates to the client's participation in:

- (a) any automatic payment plan that provides for systematic trading in the securities of a mutual fund on a monthly or more frequent basis, or
 - (b) other automatic entries such as dividends and reinvested distributions,
- the Member shall send an account statement to the client quarterly.

5.3.3 Content of Account Statement. Each account statement must contain the following information:

- (a) for nominee name accounts or accounts where the Member acts as an agent for the trustee for the purposes of administering a self-directed registered retirement savings or similar plan:
 - (i) the opening balance;
 - (ii) all debits and credits;
 - (iii) the closing balance;
 - (iv) the quantity and description of each security purchased, sold or transferred and the dates of each transaction, and;
 - (v) the quantity, description and market value of each security position held for the account;
- (b) for client name accounts:
 - (i) all debits and credits;
 - (ii) the quantity and description of each security purchased, sold or transferred and the dates of each transaction; and
 - (iii) for automatic payment plan transactions, the date the plan was initiated, a description of the security and the initial payment amount made under the plan.
- (c) for all accounts:
 - (i) the type of account;
 - (ii) the account number;
 - ~~(iii) the date the statement was issued;~~
 - ~~(iv)~~(iii) the period covered by the statement;
 - ~~(v)~~(iv) the name of the Approved Person(s) servicing the account, if applicable; and
 - ~~(vi)~~(v) the name, address and telephone number of the Member.

5.3.4 **Member Business Only.** Only transactions executed by the Member may appear on the statement of account required pursuant to Rule 5.3.3.

Schedule “H”

5.6 RECORD RETENTION

Each Member shall retain copies of the records and documentation referred to in this Rule 5 for seven years from the date the record is created or such other time as may be prescribed by the Corporation.

Schedule "I"

2.2.1 "Know-Your-Client". Each Member and Approved Person shall use due diligence:

- (a) to learn the essential facts relative to each client and to each order or account accepted;
- (b) to ensure that the acceptance of any order for any account is within the bounds of good business practice;~~and~~
- (c) to ensure that each order accepted or recommendation made for any account of a client is suitable for the client ~~and in keeping with the client's investment objectives; and based on the essential facts relative to the client and any investments within the account;~~
- (d) to ensure that, notwithstanding the provisions of paragraph (c), where a transaction proposed by a client is not suitable for the client based on the essential facts relative to the client and the investments in the account, and in keeping with the client's investment objectives, the Member or Approved Person has so advised the client before execution thereof; and the Member or Approved Person has maintained evidence of such advice;
- (e) to ensure that the suitability of the investments within each client's account is assessed:
 - (i) whenever the client transfers assets into an account at the Member;
 - (ii) whenever the Member or Approved Person becomes aware of a material change in client information, as defined in Rule 2.2.4; or
 - (iii) by the Approved Person where there has been a change in the Approved Person responsible for the client's account at the Member; and
- (f) to ensure that, where investments in a client's account are determined to be unsuitable, the Member or Approved Person so advises the client and makes recommendations to address any inconsistencies between investments in the account and the essential facts relative to the client and the Member or Approved Person maintains evidence of such advice and recommendations.

2.2.2 ~~New Accounts Application Form.~~

- (a) Each new account for a client must be opened by the Member within a reasonable time of the client's instruction to do so. Account numbers must not be assigned unless they are accompanied by the proper name and address for the client.
- (b) A New Account Application Form must be completed for each new account of a client. If the New Account Application Form does not include know-your-client information, this must be documented on a separate Know-Your-Client form. Such form or forms shall be duly completed to conform with the requirements of Rule 2.2.1 and shall be signed by the client and dated. ~~Account numbers must not be assigned unless they are accompanied by the proper name and address for the client and such name and address must be supported by the New Account~~

~~Application Form.~~

2.2.3 **New Account Approval.** Each Member shall designate a trading partner, director or officer or, in the case of a branch office, a branch manager reporting directly to the designated partner, director or officer, who shall be responsible for approval of the opening of new accounts and the supervision of account activity. The designated person shall, no later than one business day after the initial transaction date, prior to or promptly after the completion of any initial transaction specifically approve the opening of such account ~~in writing~~ and a record of such approval shall be maintained in accordance with Rule 5.

2.2.4 **Updating ~~Know-Your-Client~~ Information**

~~(a)~~ **Definition.** In this Rule, “material change in client information” means any information that results in changes to the stated risk tolerance, time horizon or investment objectives of the client or would have a significant impact on the net worth or income of the client.

~~(a)(b)~~ The Form documenting know-your-client information must be updated to include any material change in client information whenever a Member or Approved Person or other employee or agent becomes aware of such change including pursuant to Rule 2.2.4(b).

~~(c)~~ Subject to paragraph (d), the Member must maintain evidence of client instructions regarding any material changes in client information and all such changes must be approved by the individual designated in accordance with Rule 2.2.3 as responsible for the approval of the opening of new accounts.

~~(d)~~ A client signature or other internal controls sufficient to authenticate the client’s identity and verify the client’s authorization must be used to evidence any change in client name, client address or client banking information.

~~(b)(e)~~ Without reducing the responsibility of Members in Rule 2.2.1, all Members must at least annually, in writing, request each client to notify the Member if there has been any material change in know-your-client information previously provided to the Member or the client’s circumstances have materially changed. The date of such request and the date upon which any such client information is received and recorded or amended must be retained.

~~(e)~~ Written authorization must be obtained from the client for any change in a client name.

2.2.5 **Relationship Disclosure.** For each new account opened, the Member shall provide written disclosure to the client:

~~(a)~~ describing the nature of the advisory relationship;

~~(b)~~ describing the products and services offered by the Member;

~~(c)~~ describing the Member’s procedures regarding the receipt and handling of client cash and cheques. In the case of a Level 2 dealer, the disclosure must include an explanation that all client cheques shall be payable to the issuer or carrying dealer,

as applicable;

- (d) describing the Member's obligation to ensure that each order accepted or recommendation made for any account of a client is suitable for the client in accordance with Rule 2.2.1 and advising when the Member will assess the suitability of the investments in the client's account;
- (e) defining the various terms with respect to the know-your-client information collected by the Member and describing how this information will be used in assessing investments in the account;
- (f) describing the content and frequency of reporting for the account; and
- (g) describing the nature of the compensation that may be paid to the Member and referring the client to other sources for more specific information.

Schedule “J”

2.8.3 Rates of Return

- (a) In addition to complying with the requirements in Rule 2.8.2, any client communication containing or referring to a rate of return regarding a specific account or group of accounts must: ~~be based on~~
- (i) disclose an annualized rate of return calculated in accordance with standard industry practices; and
 - (ii) explain the methodology used to calculate such rate of return in sufficient detail and clarity to reasonably permit the client to understand the basis for the rate of return.
- (b) In addition to complying with the requirements in Rule 2.8.2 and Rule 2.8.3(a), any client communication containing or referring to a rate of return regarding a specific account or group of accounts that is provided by an Approved Person must be approved and supervised by the Member.
- ~~(b)(c)~~ Notwithstanding the provisions of paragraphs (a) and (b), where an account has been open for less than 12 months, the rate of return shown must be the total rate of return since account opening.

Schedule “K”

5.3.5 Account Performance Reporting. The Member must provide information to clients on an annual basis with respect to the performance of the client’s account at the Member.

- (a) Subject to paragraphs (b) and (c), the account performance reporting must include the following information for the annual period:
 - (i) the total market value of the account as at the start of the period covered by the report;
 - (ii) total assets deposited to the account during the period covered by the report;
 - (iii) total assets withdrawn from the account during the period covered by the report;
 - (iv) the total market value of the account as at the end of the period covered by the report;
 - (v) gain or loss in the account as at the end of the period covered by the report.
- (b) Notwithstanding the provisions of paragraph (a), where market values cannot be readily and reliably determined by the Member in respect of security positions held in the account, such values shall not be included in the report and the Member must disclose to the client in the report the security positions for which values have not been included and why the information has not been included in the report.
- (c) A Member need not send the information contained in paragraph (a) where the Member sends a client communication that contains an annualized percentage rate of return for the client’s account in accordance with the requirements of Rule 2.8.3.