

2008 BCSECCOM 602

COR# 08/182

Variation Order

Mutual Fund Dealers Association of Canada

Section 171 of the *Securities Act*, RSBC 1996, c. 418

Background

- ¶ 1 The Commission recognized the Mutual Fund Dealers Association of Canada (the MFDA) on February 15, 2001, under section 24 of the Act as a self regulatory body for mutual fund dealers.
- ¶ 2 The Commission continued its recognition of the MFDA on June 3, 2004, subject to certain terms and conditions set out in Schedule A of that order (the Recognition Order).
- ¶ 3 On November 14, 2006, the Commission varied the Recognition Order.
- ¶ 4 The MFDA has applied to vary Schedule A to the Recognition Order to make the following amendments (the Amendments):
1. delete the title to the Schedule and replace it with the following, to correct the spelling of Mutual:

Terms and Conditions of Recognition of the Mutual Fund Dealers
Association of Canada as a Self-Regulatory Organization of Mutual Fund
Dealers
 2. delete section 3(A) and replace it with the following, to remove the definition of public director:

(A) The MFDA's arrangements with respect to the appointment, removal from office and functions of the persons ultimately responsible for making or enforcing the rules of the MFDA, being the Board of Directors (the "Board"), shall secure a proper balance between the interests of the different members of the MFDA in order to ensure diversity of representation on the Board. In recognition that the protection of the public interest is a primary goal of the MFDA, a reasonable number and proportion of directors on the Board and on the committees of the Board shall be

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and remain during their term of office Public Directors as defined in By-law No. 1 of the MFDA.

3. delete section 6(B)(iii) and replace it with the following, to add a hyphen to the word self regulatory:
 - (iii) consideration of disciplinary history, including breaches of applicable securities legislation, the rules of other self-regulatory organizations or MFDA rules, prior involvement in criminal, relevant quasi-criminal, administrative or insolvency proceedings or civil proceedings involving business conduct or alleging fraudulent conduct or deceit, and prior business and other conduct generally, of applicants for membership and any partners, directors and officers, in order that membership may, where appropriate, be refused where any of the foregoing have previously engaged in improper conduct, and shall be refused where the past conduct of any of the foregoing affords reasonable grounds for belief that the applicant's business would not be conducted with integrity;
4. delete section 8(H) and replace it with the following, to correct the spelling of vis-à-vis:
 - (H) The MFDA shall at least annually review all material settlements involving its members or their Approved Persons and their clients with a view to determining whether any action is warranted, and the MFDA shall prohibit members and their Approved Persons from imposing confidentiality restrictions on clients vis-à-vis the MFDA or the Commission, whether as part of a resolution of a dispute or otherwise.
5. delete section 12(D)(viii) and replace it with the following, to correct the spelling of By-law:
 - (viii) the capacity and expertise to hold disciplinary hearings (including regarding proposed settlements) utilizing public representatives within the meaning of the current section 19.5 of the MFDA's By-law No. 1 together with member representatives.
6. delete section 12(H) and replace it with the following, to remove the word "be" between the words "staff may" and "reasonably request":
 - (H) The MFDA shall comply with reporting requirements set out in Appendix A, as amended from time to time by the Commission or

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its staff. The MFDA shall also provide the Commission with other reports, documents and information as the Commission or its staff may reasonably request.

7. delete section 14(C) and replace it with the following, to make the word rules all lower case:

(C) the MFDA shall ensure in connection with the suspension of Rule 2.4.1 that members and Approved Persons comply with the remaining rules, with specific reference to Rule 1 Business Structures and Qualifications, Rule 1.2.1(d) Dual Occupations and the requirement noted above in paragraph (B);

8. delete section 14(E) and replace it with the following, to add the word “of” between the words “section 38” and “By-law No. 1”:

(E) the MFDA shall not accept a member whose relationship with its Approved Persons does not comply with the rules of the MFDA and in particular, Rule 1, unless the MFDA has granted exemptive relief to that applicant under the authority granted to the Board of Directors under section 38 of By-law No. 1.

Order

¶ 5 Considering it is not prejudicial to the public interest, the Commission orders under section 171 of the Act that Schedule A of the Recognition Order be varied to make the Amendments.

¶ 6 November 14, 2008

Douglas M. Hyndman
Chair