



### **Notice of BCSC approval of use of MFDA Discretionary Fund**

As of July 28, 2022, the BCSC and the MFDA's other recognizing regulators<sup>1</sup> approved the Mutual Fund Dealers Association of Canada's (MFDA) application seeking approval to use money collected by the MFDA from fines and under settlement agreements (the MFDA Discretionary Fund) to pay for external advisor costs regarding the creation of the new single self-regulatory organization (the New SRO Integration Costs defined in Appendix A of the attached Schedule A to this Notice).

On August 3, 2021, the Canadian Securities Administrators (the CSA) published the CSA Position Paper 25-404 *New Self-Regulatory Organization Framework* (the CSA Position Paper) recommending amalgamation of the MFDA with the Investment Industry Regulatory Organization of Canada (IIROC). The MFDA and IIROC commenced the process of amalgamation to create a new single self-regulatory organization (New SRO).

The BCSC and the MFDA's other recognizing regulators received an application (the application) from the MFDA seeking approval to use unallocated monies from the MFDA Discretionary Fund to pay for external advisor costs incurred by the MFDA related to the creation of the New SRO in accordance with subparagraph 10 (A)(v) of Schedule A of the MFDA Recognition Order.

The MFDA has incurred, and continues to incur, the New SRO Integration Costs for the following services:

- legal and other consultants to advise on specific aspects of the integration of the MFDA into the New SRO, including advice related to corporate structure, organizational design and change management;
- consultants to conduct an executive search for the new CEO and members of the board of directors for the New SRO;
- accounting support to produce proforma financial statements for the New SRO; and
- advisors to align the compensation and benefits structures.

As part of the application, the MFDA submitted that the New SRO Integration Costs arise from the implementation of the New SRO. In addition, the MFDA stated that the

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<sup>1</sup> Alberta Securities Commission, Financial and Consumer Affairs Authority of Saskatchewan, Manitoba Securities Commission, Ontario Securities Commission, Financial and Consumer Services Commission of New Brunswick, Nova Scotia Securities Commission, Prince Edward Island Office of Superintendent of Securities, Office of the Superintendent of Securities, Northwest Territories, Office of the Superintendent of Securities, Nunavut and Office of the Yukon Superintendent of Securities.



disbursements from the MFDA Discretionary Fund to cover the New SRO Integration Costs is appropriate and consistent with the underlying intent in subparagraph 10 (A)(v) of Schedule A of the MFDA Recognition Order that fine and settlement monies be used for public interest and investor protection purposes.

CSA staff created a dedicated working group that conducted a thorough review of the application. Following the review, the BCSC and the MFDA's other recognizing regulators approved the MFDA to use up to \$4.29 million in money held in the MFDA Discretionary Fund, as described in Appendix A of the attached Schedule A, for the following reasons:

- the MFDA Discretionary Fund is restricted to the expenses that are not considered operating in nature. Any costs directly associated with the MFDA integrating into the New SRO are not ordinary operating costs;
- according to the CSA Position Paper, creation of the New SRO will contribute to a regulatory framework that has a clear public interest mandate and is structured to focus on investor protection. The underlying intent of subparagraph 10 (A)(v) of Schedule A of the MFDA Recognition Order is that fine and settlement monies be used for public interest and investor protection purposes. As such, the specified use of the MFDA Discretionary Fund for the payment of external advisory costs associated with the formation of the New SRO that are in the public interest would be consistent with the intent of the MFDA Recognition Order; and
- the use of the MFDA Discretionary Fund will be limited to the New SRO Integration Costs, which can only be accessed in accordance with the specific terms and conditions set out in Schedule A of this Notice.

Based on the application, the BCSC and the MFDA's other recognizing regulators have determined that it is in the public interest to allow the MFDA limited access to the MFDA Discretionary Fund. The approvals by the MFDA's other recognizing regulators can be found on their respective websites.

The approval is subject to the condition that the MFDA complies with the terms and conditions contained in Schedule A of this Notice.

July 28, 2022



## Schedule A

### MFDA Discretionary Fund Application: Terms and Conditions

#### Definition

1. In this Schedule:  
“**New SRO Integration Costs**” means external advisory costs related to the implementation of a new self-regulatory organization described in Appendix A.

“**Discretionary Fund**” means the funds resulting from fines collected by the MFDA and all payments made under settlement agreements entered into with the MFDA.

#### Quarterly Reporting

2. The MFDA must file with the Commission, by delivering to the members of the CSA Oversight Committee, within 30 days after the end of each quarter, starting with the quarter ending June 30, 2022, a report that includes the following information and documents:
  - (a) a summary of New SRO Integration Costs incurred during the previous calendar quarter or, in case of the initial filing, a summary of all New SRO Integration Costs incurred prior to June 30, 2022;
  - (b) a summary of the New SRO Integration Costs that the MFDA reasonably expects to incur during the next calendar quarter (the “**Quarterly Reports**”).

#### Certification

3. The Quarterly Reports shall include a certification by the MFDA Vice President, Finance & Administration, President and audit committee chair that:
  - (a) the expenses incurred during the relevant period are not operational in nature and only relate to the New SRO Integration Costs as set out in Appendix A;
  - (b) after paying the New SRO Integration Costs, sufficient funds remain in the MFDA’s discretionary fund for other expenses contemplated by subparagraphs 10(A)(i) to (iv) and paragraph 10(B) of Schedule A to the MFDA’s Recognition Order.



**Other Conditions**

4. The MFDA must make an additional application under subparagraph 10(a)(v) of Schedule A to the MFDA Recognition Order and obtain additional prior approval by the Commission if it will use the Discretionary Fund:
  - (a) to pay for any New SRO Integration Cost that exceeds the amounts set out in Appendix A under Approved MFDA Expenditures;
  - (b) to pay any cost that is not a New SRO Integration Cost described in Appendix A.
  
5. The MFDA shall not use the Discretionary Fund for any New SRO Integration Costs incurred after December 31, 2022.



**Appendix A - New SRO  
Integration Costs<sup>2</sup>**

<b>Nature of Costs</b>	<b>Advisory Mandate</b>	<b>Projected Total Costs<sup>3</sup></b>	<b>Approved MFDA Expenditures<sup>4</sup></b>
Legal Fees	Integration Advisory	N/A	\$1.20M
Other External Consultants - Advisory Contract	Integration Management	\$4.70M	\$2.35M
Executive Search - Fees & Support	New CEO and Board Search	\$800K - \$840K	\$420K
Finance - Accounting Support	Proforma Financial Statements	\$60K - \$68K	\$34K
Human Resources – Compensation and Benefits Structure Alignment	Compensation and Benefits Structure Alignment	\$434K - \$566K	\$283K
	<b>Total</b>		<b>\$4.29M</b>

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2 Range of projected third-party advisor and consultant costs

3 K= 1,000; M= 1,000,000

4 Where applicable, MFDA's portion of fees represents 50% of the total Projected Total Costs