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February 24, 2006

Mark Wang
Manager, Self-Regulatory Organization Oversight Branch
Capital Markets Regulation Division
British Columbia Securities Commission

Dear Mark:

Re: MFDA Oversight Review Report – Pacific Regional Office

Thank you for providing us with the results of the oversight review performed by the British Columbia Securities Commission (the "Commission").

As requested in your letter of January 23, 2006, enclosed please find our response to the final Commission report of the Pacific Regional Office. We have referenced our responses to the format and headings used in the oversight report.

We would like to take this opportunity to thank you and your staff for your courteous, professional approach to the audit process. Should you have any questions regarding the above, please feel free to contact me at (416) 943-5898 or Wendy Royle at (604) 331 4755.

Yours sincerely,


Mark T. Gordon
Executive Vice President, MFDA

Encl.

cc: MFDA Management

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COMMUNICATIONS

Pacific Regional Office-Reply to Oversight Report

Enforcement Functions

3. Investigations

3(c) Benchmarks

Staff's Findings

Generally, the Pacific Regional Office met its benchmark. However, there were no established timelines for investigation reports, investigation plans, and notification letters to the Commission of an investigation. These guidelines may help to identify systemic inefficiencies.

As a new organization, the one-year benchmark appears reasonable. However, with experience and improved efficiencies, BCSC staff expects the benchmark will shorten. (Head Office Consideration)

Staff's Recommendation (Head Office Issue)

The MFDA may want to consider establishing guidelines for investigation reports and investigation plans as well as some types of correspondence such as, notification to the BCSC of the commencement of an investigation.

MFDA's Response

MFDA Enforcement Department Procedure 012 – Benchmarks, implemented January 12, 2005, provided that MFDA Staff would conduct a yearly review of the benchmarks used for its external reporting purposes, as well as its additional “sub-benchmarks” or timelines used for internal management purposes. MFDA has conducted that yearly review as of December 31, 2005, and “sub-benchmarks” for stages and key events in the litigation process have been put in place.

4. Litigation

4(b) Benchmarks or Timelines

Staff's Findings

BCSC staff considered the benchmark's 365-day target for issuing the Notice of Hearing inconsistent with the internal litigation timelines of 60 days for the same process.

Staff's Recommendation (Head Office Issue)

BCSC staff recommend that the MFDA consider revising the Notice of Hearing part of the benchmark to be more consistent with the litigation timeline for Notice of Hearing issuance.

MFDA's Response

MFDA Enforcement Department Procedure 012 – Benchmarks, implemented January 12, 2005, provided that MFDA Staff would conduct a yearly review of the benchmarks used for its external reporting purposes, as well as its additional “sub-benchmarks” or timelines used for internal management purposes. MFDA has conducted that yearly review as of December 31, 2005, and the periods for the issuance of the Notice of Hearing in the benchmarks and internal timelines have been harmonized.

Compliance

4. Compliance Examination Process

4(b) Compliance Examination File Review Process

Staff's Findings

The BCSC staff reviewed the above documents and interviewed the Pacific Regional Director, Prairie Regional Director, Pacific Compliance Manager, and various Pacific compliance officers to gain an understanding of the compliance examination process.

The process at the Pacific Regional Office follows the MFDA's established procedures. However, the Pacific region's compliance examination files and reports go through a three-level review process as opposed to two for head office files and reports. At the first level of review, the Pacific Compliance Manager reviews the examination file and draft report. At the second and third levels of review, the Pacific Regional Director and the VP of Compliance each independently review and comment on the report.

BCSC staff reviewed all six of the Pacific regional members' compliance examination files that went through the three-level process during the review period. BCSC staff were unable to determine, from the file documentation available, the elapsed times or assess the actual benefit of each level of review. The review process, from the date the file was submitted for first level review to the date the report was issued, averaged 15 weeks. This process does not appear to be completed in a timely manner. However, all six compliance examinations were conducted during the period when the Pacific Compliance Manager was relatively new to the position. BCSC staff consider it reasonable to implement this three-level review process to ensure consistent issue identification and proper training at the regional level.

The Prairie Regional Director informed the BCSC that the turnaround times for second and third level reviews have improved. However, as the Pacific Regional Office did not lead any 2005 compliance examinations, BCSC staff were unable to confirm this improving trend.

As the MFDA matures, its staff should become more experienced and efficient. BCSC staff expect the review process to be timelier as this occurs. The third level review may be eliminated or changed to a selective or post-examination review. The BCSC will reassess the regional file review process in the next oversight review.

Staff's Recommendation

No further action necessary at present.

MFDA's Response

No action required on this issue. However, we provide the following comments. The second and third level reviews of Pacific Region head office examination files serve different purposes. The second level review ensures that the local Regional Director is aware of issues in the region, and the third level review ensures consistency of reporting by all offices of the MFDA. To improve timeliness of review, MFDA has created a new position, Director, Sales Compliance, reporting to the VP Compliance. The Director, Sales Compliance will ensure consistency of all compliance reports issued by the MFDA.

5. Compliance Examination Files**5(a) Quality of the Field Reviews*****Staff's Findings***

BCSC staff noted that the lead Pacific compliance officer did not always document the rationale for the selection of branches or sub-branches determined at the planning stage. From a review of six files, three lacked proper documentation in this regard.

Nevertheless, the compliance examination process appears effective.

Staff's Recommendation

The Pacific Regional Office should ensure the selection rationale for branches and sub-branches chosen for each compliance examination is adequately documented in the file.

MFDA's Response

We agree with this finding. A step has been added to the Compliance Examination Program specifically requiring documentation describing the rationale for selecting particular branches and sub-branches.

5(b) Efficiency of the compliance examination process**(ii) Deficiency Resolution Process*****Staff's Findings***

BCSC staff reviewed all seven compliance examination files. At the time of review, one file was still open after 59 weeks from the start of fieldwork. For the five closed files, the time from report issuance to file closure was lengthy, ranging from 21 to 45 weeks, and averaging 28 weeks. Generally, at least three member responses were required before all issues were satisfactorily addressed. Further, the Pacific Regional Office did not always reply to the member firm's response in a timely manner. The first MFDA reply was the slowest, averaging 7.5 weeks and

ranging from 2.4 to 13.5 weeks. The final reply or closing letter was the quickest, averaging 4.1 weeks.

However, BCSC staff noted the regional office's efforts to hasten the resolution process with direct discussions of outstanding issues with two member firms after receipt of their third responses. With the MFDA's coordinated examination approach for national firms, the BCSC understands the difficulty for compliance staff to promptly address a member firm's response during fieldwork. Further, the BCSC acknowledges that at the time of these examinations, there were temporary staffing issues, and lack of member awareness of MFDA's regulatory requirements.

Regardless, the BCSC considers the MFDA response time to be lengthy and expects the number of member responses to decrease in the second round of compliance examinations. The long delay between the issuance of the report and the satisfactory resolution of deficiencies may downplay the importance of the outstanding issues and undermine the effectiveness of the compliance examination process.

Staff's Recommendation

The BCSC recommends that the Pacific Regional Office address its member firms' responses to compliance examination deficiencies in a timelier manner.

MFDA's Response

The Compliance Department has a written procedure in the Compliance Officer Reference Manual requiring responses to be addressed within 3 weeks. We will ensure timeliness of responses going forward.

While we agree that a long delay between issuance of the report and satisfactory resolution of deficiencies may undermine the effectiveness of the compliance examination process, we do not believe this occurred at the MFDA. In order to ensure the objectives of the compliance process are met, it is necessary to continue to pursue issues with Members until the issues are adequately resolved. As this was the first round of compliance examinations and our rules were new to our Members, in some cases several responses were required before issues were adequately resolved. Significant issues identified during a compliance examination were referred to our Enforcement Department for immediate consideration.

Membership Functions

4. New membership application reviews

4(b) New Membership Application Review Files

Staff's Findings

There were only two new membership applications for the Pacific region. Both files were thorough but neither was completed in a timely manner by Pacific regional staff. The

impediments were attributed to applicant delays, staff training, and duplication of the preliminary review (at head office's request), all beyond the control of the regional office.

The review files were well documented and evidenced managerial review of the work. The regional review process appeared effective except for the duplication of the preliminary review in one instance.

Staff's Recommendation (Head Office Issue)

BCSC staff saw no benefit to duplicating the preliminary review at the regional level when the review had already been completed at head office. To ensure timely completion of reviews, MFDA offices should coordinate their efforts to keep duplication to a minimum.

MFDA's Response

We agree with the finding. MFDA's standard procedure for review of membership applications upon receipt in the regional office is to commence detailed review and not to duplicate the preliminary review completed at Head Office.