

IN THE MATTER OF  
THE *SECURITIES ACT*, R.S.N.S. 1989, CHAPTER 418, AS AMENDED  
(the Act)

AND

IN THE MATTER OF THE MUTUAL FUND DEALERS ASSOCIATION OF  
CANADA/ASSOCIATION CANADIENNE DES COURTIERS DE FONDS  
MUTUELS (the MFDA)

ORDER  
(Section 151)

WHEREAS:

1. The Nova Scotia Securities Commission (the Commission) issued an order dated November 26, 2001, recognizing the MFDA as a self-regulatory organization for mutual fund dealers pursuant to section 30 of the Act (the Original Order).
2. the Commission issued an order dated April 8, 2004, amending and restating the Original Order.
3. the Commission issued orders dated November 8, 2006, and November 26, 2008, varying the terms and conditions of the Original Order, as amended and restated by the order dated April 8, 2004 (collectively, the Recognition Order).
4. the MFDA applied to vary the Recognition Order to extend the suspension of its Rule 2.4.1 until March 31, 2010, to give it time to develop a proposal to replace that rule. The MFDA also applied to remove section 14(A) from Schedule A of the Recognition Order.
5. The Commission is satisfied that to do so would not be prejudicial to the public interest.

IT IS ORDERED pursuant to section 151 of the Act that the Recognition Order be varied by deleting section 14 of Schedule A and replacing it with the following:

14. SUSPENSION OF MFDA RULE 2.4.1

MFDA Rule 2.4.1 is suspended and will continue to be suspended until March 31, 2010, in the Provinces of British Columbia, Saskatchewan, Ontario and Nova Scotia, and during such period the MFDA shall comply with the following conditions:

(A) the MFDA shall, as a condition of a member or Approved Person being entitled to rely on the suspension of Rule 2.4.1, require that the member and its Approved Persons agree, and cause any recipient of commissions on behalf of Approved Persons that is itself not registered as a dealer or a salesperson to agree, to provide to the MFDA, the Commission and the applicable member access to its books and records for the purpose of determining compliance with the rules of the MFDA and applicable securities legislation;

(B) 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 (A);

(C) the MFDA shall ensure that members applying for membership are made aware of the requirements of Rule 1 by delivering to each applicant a copy of its Notice MR-0002; and

(D) 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.

Dated at Halifax, Nova Scotia, this 16 day of December, 2008.

Nova Scotia Securities Commission

“H. Leslie O’Brien”

**H. Leslie O’Brien**

## **Joint Notice of Approval**

### **Mutual Fund Dealers Association of Canada Application to Amend Recognition Order**

The Mutual Fund Dealers Association of Canada (MFDA) applied to the securities regulatory authority in each of British Columbia, Ontario, Saskatchewan and Nova Scotia (the Applicable Jurisdictions) to amend the order of each of the Applicable Jurisdictions recognizing the MFDA as a self-regulatory organization (Recognition Order). The MFDA requested the amendments in order to extend the suspension period for its Rule 2.4.1, which currently expires on December 31, 2008.

MFDA Rule 2.4.1 requires MFDA Members to pay any remuneration for business conducted by their Approved Persons on the Members' behalf directly to and in the name of the Approved Persons. The MFDA requested the extension to give it time to develop proposed amendments to Rule 2.4.1 to allow Approved Persons to direct such remuneration to a non-registered corporation, subject to conditions (a directed commissions approach).

#### **A. Extension of the Suspension of MFDA Rule 2.4.1**

The Applicable Jurisdictions have approved extending the suspension period for MFDA Rule 2.4.1 to March 31, 2010, with a requirement for the MFDA to submit its proposed amendments to Rule 2.4.1 by May 31, 2009. The Applicable Jurisdictions are of the view that a March 31, 2010 expiry date would provide sufficient time for the recognizing regulators to consider the regulatory impact of the proposal and for the MFDA to implement the resulting approved amendments. If the MFDA does not meet the May 31, 2009 deadline to submit a rule proposal, the Applicable Jurisdictions will provide a status update on the suspension of Rule 2.4.1 and will inform the industry which jurisdictions will be bringing Rule 2.4.1 into force on April 1, 2010.

A copy of each Applicable Jurisdiction's Recognition Order of the MFDA can be found on their websites or in their bulletin.

#### **B. Public Comments on the MFDA's Application**

On August 29, 2008, the Applicable Jurisdictions published for comment the MFDA's application and related documents. Seven comment letters were received. The MFDA's summary of comments and response is attached.

#### **C. CSA's Response to Public Comments**

The majority of the commenters advocate that any rule proposal should allow salespersons to conduct registerable activities on behalf of their dealers through the salespersons' personal corporations, rather than allow a directed commissions approach.

They also recommend the establishment of a joint initiative of the CSA, SROs and industry to address the incorporated salesperson issue.

We would like to note that the CSA's objective is to ensure that any proposal the SROs submit allowing for salespersons' corporations addresses our regulatory concerns, primarily the protection of investors.

The CSA has communicated to the Investment Dealers Association of Canada (now the Investment Industry Regulatory Organization of Canada) and the Investment Industry Association of Canada our concerns with any proposal that includes a non-registered corporation performing registerable activities. We think the registration regime is an important component to ensure that investors are protected.

The CSA supports the notion of industry and the SROs working together to collectively propose a solution that would be applicable to all registrants subject to SRO oversight. The CSA expects industry and their SROs to work together and take the lead in developing a solution that does not diminish investor protection. We look forward to considering such a solution and to discussing how industry might obtain government approval for any required legislative changes.

December 19, 2008