



British Columbia Securities Commission

December 22, 2009

John Whaley
Executive Director
Independent Financial Brokers
Suite 306, 30 Eglinton Avenue West
Mississauga, ON L5R 3E7

Dear Mr. Whaley:

Review and approval of MFDA Rules

We have your letter of December 2, 2009 and your request that the BCSC review the current process for soliciting comments from the public when we publish amendments to MFDA rules. We think we can address many of the issues you raise by providing a summary of our existing process.

The Commissions that recognize the MFDA (the recognizing regulators) require in recognition orders that the MFDA obtain each Commission's prior approval before any rule, or change or suspension of a rule, can become effective. The recognizing regulators have agreed to a rule review protocol for coordinating the review and consideration of proposed rules.

Under the *BC Securities Act*, and similarly under other Securities Acts, the standard of review when the Commission considers an MFDA rule is whether the rule is in the public interest. This requires that we balance the interests of various stakeholders.

The rule review protocol contemplates that the MFDA file with each recognizing regulator a notice of publication of any proposed rule amendment, which the principal regulator of the MFDA (currently the BCSC) must publish for comment for 30 days (or as otherwise agreed to by the principal regulator and the MFDA). The public comment period is integral to ensuring that all stakeholders have an opportunity to provide their comments and that regulators and the MFDA have the benefit of those comments.

We note that the IFB participated in this process and provided comments on the proposed amendments to section 24.3 of the MFDA's By-law No. 1 (the amendments). Staff of the recognizing regulators considered IFB's comments and all other public comments as part of their review and consideration of the amendments.



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In addition to publishing MFDA proposals for comment, as principal regulator of the MFDA, the BCSC is responsible for:

- communicating with the MFDA on behalf of the recognizing regulators about the MFDA's proposed rules changes
- circulating any response from the MFDA to the recognizing regulators
- using best efforts to resolve any issues raised by the recognizing regulators with the MFDA's proposal or responses.

Over the course of the recognizing regulators' consideration of the proposed amendments, the BCSC ensured that the MFDA received all of the recognizing regulators' comments. We also ensured that we informed each recognizing regulator of the other jurisdictions comments. The proposed rule as amended to reflect all concerns, was ultimately approved by each of the recognizing regulators.

The MFDA has its own process for developing and approving policy proposals. The MFDA recently described this process and set out various ways in which it hopes to improve communication and consultation with stakeholders in its Bulletin #0389-P, dated July 28, 2009. These improvements include:

- extending public comment periods
- engaging in a pre-consultation process with stakeholders during the MFDA's policy development process and prior to Board approval
- putting discussion papers on policy proposals that staff prepare for the MFDA's Policy Advisory Committee and minutes of that committee's meetings on its members only website.

We agree that the public consultation process should be transparent and have integrity. While there is always room for improvement, we are confident that the current process works and will be improved by the changes proposed by the MFDA. We thank you for sharing your thoughts and concerns and appreciate hearing suggestions for improvements.

Yours truly,


Brenda M. Leong
Chair

cc: Sandra Jakab, Director
Doug MacKay, Manager, SRO Oversight
Mark Wang, Manager, Legal Services