



30 Eglinton Avenue West, Suite 306
Mississauga ON L5R 3E7
Tel: (905) 279-2727
Website: www.ifbc.ca

May 12, 2009

Jason Bennett
Corporate Secretary
Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto ON M5H 3T9

Sarah Corrigall-Brown
Senior Legal Counsel
British Columbia Securities Commission
701 West Georgia Street
P.O. Box 10142, Pacific Centre
Vancouver BC V7Y 1L2

Sent by Email: scorrigall-brown@bcsc.ca; jbennett@mfd.ca

Dear Sir/Madam:

Subject: MFDA Policy 3: Complaint Handling, Supervisory Investigations and Internal Discipline

Independent Financial Brokers of Canada (IFB) is pleased to provide our comments on the proposed amendments to Policy No. 3, Handling Client Complaints.

IFB is a professional association representing approximately 4,000 licensed financial advisors. Many of our members hold mutual fund licenses and operate as Approved Persons. Our members tend to be small business people who offer a range of financial services to clients in their local communities. Our comments reflect the viewpoint of our members who are at the centre of the client-advisor relationship.

We support the right of clients to have ready access to a well articulated and transparent process to deal with their complaints in a timely manner. In fact, we believe that clients should be directed to the Client Complaint section of the MFDA website as well as on the Investor Ed website early on so that they are familiar with the complaint mechanisms available to them and the process for engaging these mechanisms.

However, ‘complaints’ may be misunderstandings that can be easily resolved between the advisor and client without triggering a formal complaint process, involving the compliance department of the dealer. We do not think that the current proposal provides enough recognition of these types of situations. Although the Policy has been amended to separate complaints which can be addressed through an informal resolution, under Part 1, from those which are subject to additional formal requirements, there is still a requirement for record-keeping and reporting that does not reflect the materiality of the complaint. Our concern is that this could jeopardize the reputation of an Approved Person despite there having been no wrong-doing and the misunderstanding having been successfully resolved.

Similarly, we think that complaints should be required to be in writing. This helps to ensure that all parties have a similar understanding as to the true nature of the complaint. Verbal statements are subject to misinterpretation and may be difficult to adjudicate. While Section 5 advises members that they are expected to assist clients in documenting verbal complaints where assistance is required, clients may not be comfortable dealing directly with dealer staff on such matters. Alternative, more impartial, solutions should be considered to deal with such situations.

We find the proposed wording in Section III, Supervisory Investigations, to be unduly broad and without limitation. As stated it says:

With regard to the type of conduct outlined in Part I, Section 3 of this Policy, other than suitability, the Member has a duty to conduct a detailed investigation in all situations where there is information from any source, written or verbal, whether from an identified source or anonymous, to raise the possibility that such conduct occurred. This duty applies to all conduct by the current or former Approved Person, whether it occurred inside or outside the Member.

This raises the real possibility that Approved Persons could be held accountable for hearsay and information that lacks substance or merit, while the perpetrator can remain unidentified and unaccountable. Much of the foundation of an advisor’s relationship with his or her client is based on trust. If that trust is destroyed through allegations which have no merit or are later disproved, it can nevertheless result in significant personal reputational and economic harm to the Approved Person, with no recourse for them. To discourage such situations, this section needs to be more limited in scope.

Furthermore we believe, there should be no consideration of information received from an ‘anonymous’ source, nor should a ‘detailed investigation’ be required in all such situations. We also suggest that investigations of an Approved Person should be limited to conduct which occurred at the Member or prior Member, not simply “inside or outside the Member”. Such broad wording leaves Approved Persons open to complaints not related to their mutual fund license and outside the MFDA jurisdiction.

Should you have any questions on our comments or wish to discuss further, please contact the undersigned.

Yours truly,

A handwritten signature in black ink, appearing to read 'John Whaley', with a stylized flourish at the end.

John Whaley
Executive Director
Email: jaw@ifbc.ca