

**NOTICE OF COMMISSION RECOGNITION OF
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA/
ASSOCIATION CANADIENNE DES COURTIERS DE FONDS MUTUELS
AS A SELF-REGULATORY ORGANIZATION FOR
MUTUAL FUND DEALERS**

Notice of Recognition of Self-Regulatory Organization

The Commission recognized the Mutual Fund Dealers Association of Canada/Association Canadienne des Courtiers de Fonds Mutuels (the “MFDA”) as a self-regulatory organization for mutual fund dealers under section 53.1 of the *Securities Act*, S.A. 1981, c.S-61 (the “Act”) on March 14, 2001. The Recognition and the terms and conditions of recognition follow this Notice.

Background

Since 1997, the Commission, together with other members of the Canadian Securities Administrators (“CSA”), has encouraged and supported the establishment of the MFDA. The MFDA was created in June 1998 as a non-share capital corporation with an objective of acting as a self-regulatory organization (“SRO”) for mutual fund dealers in Canada.

In December 1999, the MFDA submitted its application to the Commission for recognition as an SRO for mutual fund dealers. On June 16, 2000 the Commission published for a 90-day comment period:

- The criteria the Commission proposed to use to assess the MFDA in determining whether to recognize the MFDA as an SRO for mutual fund dealers (the “Proposed Criteria”); and
- The response of the MFDA to the Proposed Criteria.

The draft rules and by-law, including applicable forms and notices, of the MFDA were attached to the MFDA’s response to the Commission’s Proposed Criteria for recognition. These documents were published together as the MFDA Recognition Package. The forms and notices were made available electronically on the MFDA’s web-site.

The Commission received the MFDA’s revised application for recognition on December 18, 2000. The revised application included:

1. A summary of the comments the MFDA received on the MFDA Recognition Package and the response of the MFDA to those comments.
2. The By-law and Rules of the MFDA revised to reflect the changes made by the MFDA in response to the comments received.

3. A description of those MFDA Rules that the MFDA recommended be suspended for specified periods. The Rules the MFDA recommended suspending included, among others, (i) rule 2.4.1 which is the Rule that prohibits dealers from paying commissions to personal corporations of salespersons, (ii) the Rules requiring specified levels of capital for different categories of dealers, and (iii) the MFDA Rule requiring that annual statements be sent to clients.

The MFDA's revised application for recognition, including its summary of comments and responses to those comments were made available in December 2000 on the MFDA's web-site.

Industry Concerns with the MFDA Rules

With one exception, the Commission is satisfied with the responses of the MFDA to the comments received and has worked with the MFDA to ensure that the final MFDA rules and by-laws reflect appropriate regulatory responses to the issues raised. Non-substantive amendments were made to the final MFDA rules and by-law from the version submitted to the Commission in December 2000. In addition, the Commission has required, as a term and condition of Recognition, that the MFDA amend certain rules and change the specified period of suspension for other rules prior to accepting its first member. Section 15 of the Recognition provides for these required amendments.

The Commission has considered the two principal concerns raised through the comments on the MFDA rules and by-law and the Proposed Criteria: payments of commissions by dealers to entities other than registered salespersons and the governance structure of the MFDA.

The Commission has rejected the MFDA's proposal to suspend Rule 2.4.1. This is the Rule that requires members of the MFDA to pay commissions earned by their Approved Persons directly to and in the name of those Approved Persons. The Commission views this Rule as a statement of existing law and therefore the Commission requires the MFDA to enforce the Rule within the Province of Alberta. The ASC will work with the industry and the MFDA to determine if a legislative solution to the ASC's concerns regarding payment of commissions to salesperson's corporations can be found.

Many commentators on the MFDA Recognition Package remarked about the governance structure of the MFDA. Specifically they addressed the provisions that gave The Investment Funds Institute of Canada ("IFIC") and the Investment Dealers Association of Canada (the "IDA") certain rights to nominate and appoint directors and officers of the MFDA. The Commission is of the view that a suitable governance structure for a self-regulatory organization is one that provides for appropriate representation of the public and the self-regulatory organization's membership on its board of directors. Accordingly, the Commission has recognized the MFDA on the condition that the current governance structure be changed by the MFDA's third annual meeting. The new structure will remove the rights of IFIC and the IDA to nominate and appoint directors and officers and that there will be appropriate representation of

public and MFDA members on the Board of Directors.

Subject to these observations, the Commission is now satisfied that the issues raised by the industry concerning the MFDA rules and by-law have been addressed appropriately and the Recognition reflects the Commission's decision.

Dated: April 12, 2001