

2014

# Annual Enforcement Report



**Mutual Fund Dealers Association of Canada**  
Association canadienne des courtiers de fonds mutuels

# Message from the President and CEO



I am pleased to present the 2014 Annual Enforcement Report which highlights key enforcement activity over the course of 2014. As a key goal of its strategic plan, the MFDA is committed to ensuring a high level of conduct among its Members and Approved Persons with regard to mutual fund distribution in Canada. As such, the MFDA continues to focus enforcement activity in several areas relating to Member and Approved Person conduct such as the suitability obligation, the duty to deal fairly, honestly and in good faith with clients, the duty to avoid irreconcilable conflicts of interest with clients, and Members' duties of supervision and fair complaint handling.

This report summarizes several important hearings that were completed in 2014, and demonstrates the MFDA's commitment to send a clear message to those who breach MFDA requirements that they will be held accountable.

As demonstrated in this report, the Enforcement Department continues to focus in part on protecting seniors and vulnerable persons. This goal is achieved not only through the disciplinary process, but by providing investor education resources to Canadian investors, initiating strategies to strengthen compliance among Members and Approved Persons, and collaborating with our Members and regulatory partners. In 2014, the Enforcement Department commenced 48 proceedings, many of which involve seniors, and notably, initiated a proceeding against a Member for its failure to handle the complaint of two senior investors promptly and fairly. In addition, the Enforcement Department established a Whistleblower Program to receive information from individuals who have knowledge or evidence of potential unethical or illegal activity. Over the course of 2014, the Enforcement Department achieved successful regulatory outcomes by coordinating activity and sharing information with a number of law enforcement agencies on cases involving serious matters, and has entered into memoranda of understanding with the Financial Services Commission of Ontario and the Life Insurance Council of Saskatchewan, with the aim of improving information sharing and cooperation between the MFDA and these regulatory bodies.

I would like to thank all Enforcement Department management and staff for their contributions towards protecting Canadian investors, and I am pleased to see several messages of thanks and support from MFDA stakeholders reproduced in this report, which recognize their contributions as well.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mark T. Gordon', written over a light blue horizontal line.

Mark T. Gordon, LL.B.  
President and CEO

# Table of Contents

<b>About Us</b>	<b>4</b>
Enforcement Process	5
Intake	7
Case Assessment	9
Investigations	11
Litigation	11
<b>Key Enforcement Activity</b>	<b>15</b>
Protection of Seniors and Vulnerable Persons	16
Member Complaint Handling and Supervisory Investigations	17
Strengthening Compliance by Members and Approved Persons	18
Case Highlights	19
Hearings Concluded by Type of Primary Allegation	22
Member Education	23
<b>Glossary</b>	<b>24</b>

# About Us

## Mutual Fund Dealers Association of Canada

The Mutual Fund Dealers Association of Canada (MFDA) is the national self-regulatory organization (SRO) for the distribution side of the Canadian mutual fund industry. The MFDA is structured as a not-for-profit corporation and its Members are mutual fund dealers that are licensed with provincial securities commissions. As an SRO, the MFDA regulates the operations, standards of practice and business conduct of its Members and their Approved Persons in order to enhance investor protection and strengthen public confidence in the Canadian mutual fund industry.

## Enforcement Department

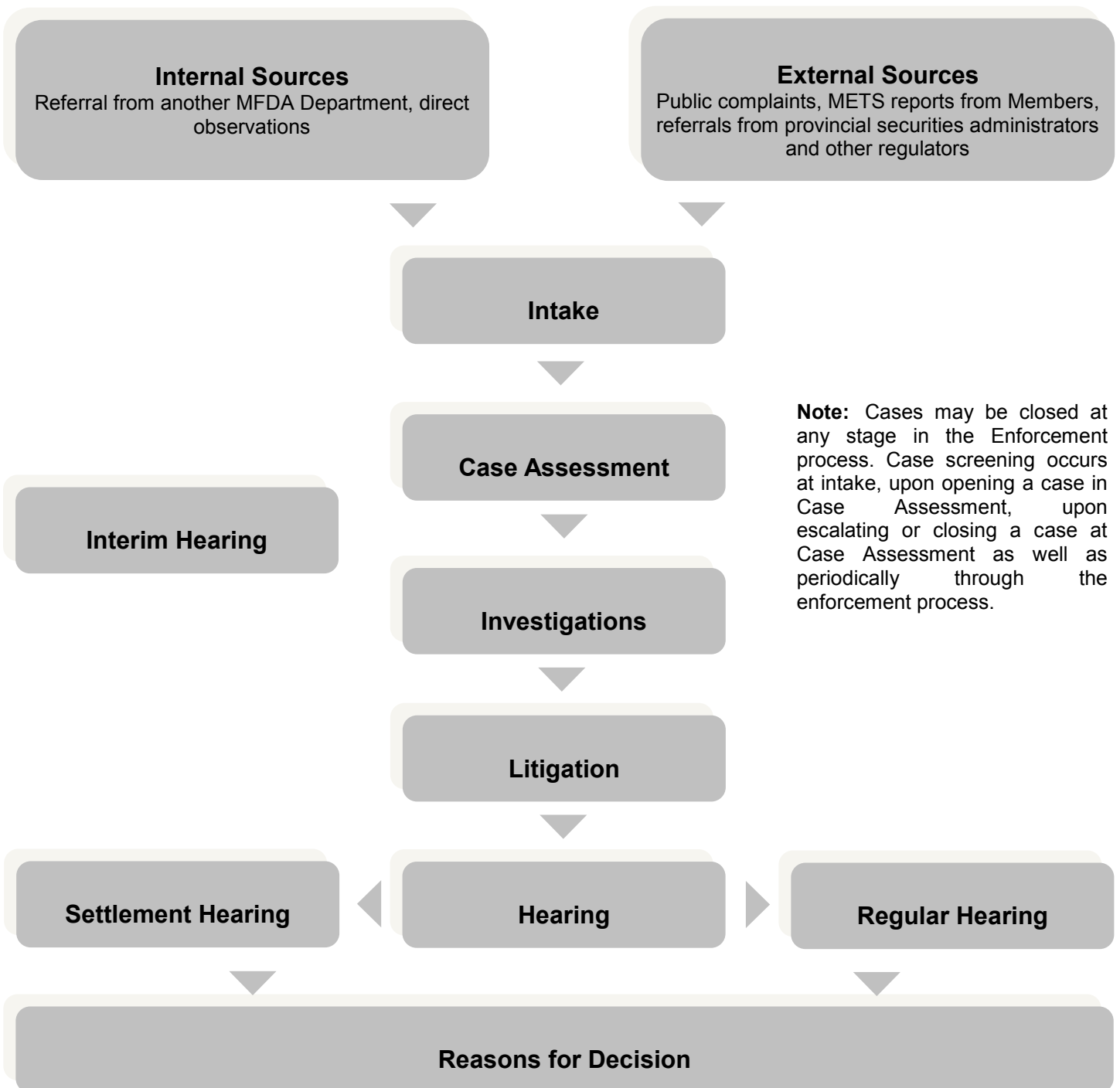
The Enforcement Department investigates situations where our Members and their Approved Persons may have breached our requirements. The Enforcement Department operates on several general principles:

- The Enforcement Department considers general and specific deterrence in its decision making.
- Members and Approved Persons are provided opportunity for input before a decision is made on disciplinary action, except in urgent cases involving potential public harm.
- In all cases, the level of supervision by the Member of its Approved Persons will be part of the review.
- Cases are reviewed proactively, with a view to identifying possible associated misconduct and assessing root causes.
- The Enforcement Department works on a cooperative basis with other regulatory agencies and law enforcement organizations.
- The Enforcement Department works on a cooperative basis with the MFDA Compliance and Policy departments to refer cases and issues where appropriate.

The Enforcement Department has four main functions:

- Intake
- Case Assessment
- Investigations
- Litigation

# Enforcement Process



**Table 1. Overview of Enforcement Department Activity, 2012-2014**

The table below summarizes overall activity for the Enforcement Department.

Description	Number		
	2014	2013	2012
Cases opened	418	426	474
Percentage involving Seniors or Vulnerable Persons	17%	25%	30%
Cases closed	373	483	479
Warning letters	90	137	86
Cautionary letters	95	138	135
Proceedings commenced	48	65	48
Percentage involving Seniors or Vulnerable Persons	33%	25%	30%

**Note:** Seniors are defined by the MFDA (for statistical purposes) as investors 60 years of age or over. Vulnerable Persons are those considered by the MFDA (for statistical purposes) to be particularly at risk due to circumstances such as language barriers, limited literacy, disability issues, or very limited financial resources.

# Intake

The Enforcement Department receives information about potential violations of MFDA Rules, By-laws, Policies and applicable securities regulations, in various ways. The most common are event reports filed on the Member Event Tracking System (METS) that are made when Members receive a complaint or identify issues through their branch review programs and other supervisory activity. As well, event reports come from the public, other regulators, and the MFDA Compliance Department. This information is screened and cases are opened where there is a possibility of a violation of MFDA requirements.

## **Whistleblowers**

The MFDA established its Whistleblower Program in February 2014 to receive information from individuals who have knowledge or evidence of potential unethical or illegal activity or contraventions by MFDA Members or Approved Persons of MFDA By-laws, Rules, Policies or Canadian securities requirements. The activity in question may have occurred in the past, be ongoing or be about to occur.

Whistleblowers are typically individuals who raise concerns about potential wrongdoing in their workplaces, but may include other individuals who have knowledge or evidence of potential wrongdoing within an organization. By virtue of their employment, some whistleblowers may have inside information about the circumstances and individuals involved in potential misconduct.

Confidentiality of the identity of a whistleblower and the information they provide will be maintained by the MFDA to the fullest extent possible. However, whistleblowers are advised that the MFDA may be required to disclose, produce or share whistleblower information with the Member concerned as well as with other regulatory or law enforcement agencies, during the course of an investigation or disciplinary proceeding or as otherwise required by law.

In 2014, 8 tips from whistleblowers were received, resulting in 4 opened cases.

**Table 2. Cases Opened at Case Assessment by Source, 2014**

The table below lists the sources from which the Enforcement Department became aware of information that led to a case being opened at the Case Assessment stage.

Source	Number
METS	251
Public	137
CSA and Other Regulators	16
MFDA Sales Compliance	5
Whistleblower	4
Member	2
Police	1
MFDA Financial Compliance	1
Other - Referral from other Enforcement matter	1
Total	418



# Case Assessment

Once a complaint has passed the intake stage, a case is opened. The Case Assessment group obtains further information and assesses whether there are grounds to believe a violation has occurred. Where there are such grounds, the Case Assessment group may deal with the matter by way of a Warning or Cautionary Letter or may escalate it to the Investigations group.

Of the 418 cases opened in 2014, 127 were referred to the Investigations group. A case is escalated from the case assessment stage to the investigations stage in two circumstances: (i) when the case will likely result in a Notice of Hearing, and, (ii) in more complex cases where a detailed investigation is required.

## Identifying KYC Information

When relevant in suitability cases, the Enforcement Department makes efforts to contact clients to confirm the accuracy of KYC forms that are maintained by the Approved Person and Member involved. Part of this process involves requesting any supporting documentation that may be available. The Enforcement Department proceeds on the basis of information about the clients' circumstances that could reasonably have been collected by the Approved Person or Member. Where KYC information may have been deliberately misrepresented or altered, allegations of falsification or misrepresentation may be raised.

**Table 3. Primary Allegations Made in Cases Opened at Case Assessment, 2012-2014**

The table below lists the primary allegation made in cases opened at the Case Assessment stage.

Nature of Primary Allegation	Number of Primary Allegations		
	2014	2013	2012
Falsification/ Misrepresentation*	54	42	45
Blank Signed Forms	46	53	74
Suitability—Investments	36	27	46
Suitability—Leveraging	33	42	53
Complaint Procedures	31	30	19
Policies and Procedures	24	27	24
Commissions and Fees	23	18	33
Business Standards	19	36	31
Personal Financial Dealings	19	16	14
Unauthorized/ Discretionary Trading	18	17	19
Outside Business Activities/ Dual Occupation	15	17	23
Transfer of Accounts	12	20	10
Forgery/ Fraud/ Theft/ Misappropriation/ Misapplication	12	5	8
Sales Communication	7	11	12
Referral Arrangements	4	8	5
Supervision	3	11	12
Provincial Securities Legislation	3	8	5
Handling of Funds	2	6	9
Other	57	32	32
<b>Total Number of Primary Allegations</b>	<b>418</b>	<b>426</b>	<b>474</b>

\* Many of these involve client signature cases where there is no evidence of harm to the client.

# Investigations

The Investigations group conducts in-depth examinations of cases which include gathering documentation, conducting interviews, analyzing cases and preparing reports and recommendations. This work is conducted with the aim of determining whether a violation of MFDA By-laws, Rules, Polices or applicable securities legislation has occurred. The Investigations group also coordinates investigation activity with other regulatory bodies and law enforcement.

Of the 127 cases investigated in 2014, 52 were escalated to Enforcement Counsel with a recommendation to commence formal disciplinary proceedings.

# Litigation

As part of its regulatory mandate, the MFDA is authorized to commence disciplinary proceedings against its Members and Approved Persons who have allegedly engaged in misconduct.

Disciplinary proceedings are carried out by Enforcement Counsel before Hearing Panels of the MFDA Regional Councils. The responsibilities of Enforcement Counsel relate to all aspects of the litigation process, including providing advice and assistance in the course of an investigation, reviewing the Investigation Report prior to the escalation of the matter to the litigation phase, preparing the Notice of Hearing and other proceeding-related documents and the timely prosecution of the matter to a conclusion. Enforcement Counsel are also required to be able to deal appropriately with the various parties who may have an interest in the process, including complainants and other regulators.

## Key Elements of the Litigation Process

### Hearing Panels

Hearing Panels are made up of representatives serving on one of the MFDA's four Regional Councils. Hearing Panels are comprised of three Regional Council representatives: one Public representative and two Industry representatives. The Public representative serves as the Chair of each Hearing Panel, and is either a retired judge or practicing lawyer with litigation or administrative law experience. Hearings are conducted in the region where the alleged misconduct occurred. The Hearing Panel is responsible for determining whether any misconduct occurred and if so, whether any penalties should be imposed on the Member or Approved Person. Hearing Panels must provide written Reasons for their decisions.

### Hearing Types

#### *Hearing on the Merits*

Anytime after an Approved Person or Member is served with a Notice of Hearing, they may contact MFDA Staff to initiate settlement discussions. Where the Approved Person or Member wishes to dispute any of the facts or allegations in the Notice of Hearing, or if they are unable to reach a Settlement Agreement with MFDA Staff, the matter will proceed to a Hearing on the Merits. The hearing is open to the public, unless and to the extent that the Hearing Panel determines that all or part of the hearing should proceed in the absence of the public. MFDA Staff and each Respondent are given an opportunity to make an opening statement, present documentary evidence, examine and cross-examine witnesses, and make a closing statement summarizing the evidence that was presented along with any relevant arguments.

#### *Settlement*

A Settlement Agreement contains a description of the facts acceptable to MFDA Staff and the Respondent, an admission by the Respondent to some or all of the allegations of misconduct, and an agreement as to the penalties to be imposed. At a Settlement Hearing, a Hearing Panel reviews the Settlement Agreement and hears the arguments of the parties to the Settlement Agreement in support of the proposed terms of settlement. The Hearing Panel then determines whether the proposed settlement is reasonable and in the public interest. The Hearing Panel is only permitted to accept or reject the Settlement Agreement in its entirety - it is not permitted to modify the Settlement Agreement or substitute its own terms of settlement. If the Hearing Panel accepts the Settlement Agreement, it will issue an order imposing the agreed-upon penalties on the Approved Person or Member, and the Settlement Agreement and the Hearing Panel's Reasons for Decision will be released to the public.

**Table 4. Hearings Commenced, 2014 - All Allegations**

The MFDA commenced 48 proceedings in 2014 by Notice of Hearing or Notice of Settlement Hearing. Most of the proceedings involved more than one alleged violation of MFDA Rules, By-laws or Policies. This table is a count of all allegations of various types made in proceedings commenced in 2014.

Nature of Allegation	Number of Proceedings Commenced where an Allegation was made against an Approved Person	Number of Proceedings Commenced where an Allegation was made against a Member
Falsification/ Misrepresentation	13	-
Outside Business Activities/ Dual Occupation	13	-
Blank Signed Forms	11	-
Failure to Cooperate	10	-
Referral Arrangements	8	-
Personal Financial Dealings	6	-
Suitability - Leveraging	6	-
Forgery/ Fraud/ Theft/ Misappropriation/ Misapplication	5	1
Conduct Unbecoming	4	-
Suitability – Investments	4	-
Unauthorized/ Discretionary Trading	2	-
Complaint Procedures	1	1
Supervision	1	1
Financial Requirements	1	-
Sub-Total	85	3
Overall Total	88	

**Table 5. Hearings Concluded, 2014 - Penalties**

In 2014, the MFDA Enforcement Department concluded 50 hearings. In the same period, MFDA Hearing Panels imposed fines of \$63,500 against Approved Persons who are currently registered, all of which have been collected. Hearing Panels also imposed fines of \$7,486,000 against Approved Persons who are no longer registered, of which \$104,500 has been collected. In most of the latter cases, those Approved Persons are no longer registered as a result of permanent prohibitions or suspensions ordered as part of the MFDA disciplinary proceedings. In addition, MFDA Staff collected a total of \$9,000 in fines relating to proceedings concluded in prior years.

The MFDA has powers to collect fines from Respondents who remain in the industry as Approved Persons, but does not have the ability to collect fines from former Approved Persons, except in the province of Alberta where MFDA Staff makes all reasonable collection efforts. In 2014, MFDA Staff collected \$32,500 from current and former Approved Persons in Alberta. The MFDA also pursues options for collecting costs from former Members or Approved Persons as applicable law may permit.

The table below shows the penalties imposed against Approved Persons and Members by Hearing Panels in hearings concluded in 2014. Additional types of penalties Hearing Panels imposed on Approved Persons, which are not shown in the table, include suspensions from registration in a supervisory capacity, and orders to rewrite certain industry courses.

Type of Penalty	Total
Permanent Prohibition	19
Suspension	20
Termination of Membership	1
Total Fines	\$7,549,500
Total Costs	\$279,500

**Table 6. Hearings Concluded, 2014 - Type of Hearing**

Type of Hearing	Number
Disciplinary Hearing	30
Settlement Hearing	20
Total Number of Hearings	50

# Key Enforcement Activity

- Protection of Seniors and Vulnerable Persons
- Member Complaint Handling and Supervisory Investigations
- Strengthening Compliance by Members and Approved Persons
- Case Highlights
- Hearings Concluded by Type of Primary Allegation
- Member Education

“I thank you and the MFDA for pursuing this matter. It is some comfort to know your expertise, help, and good judgment is out there.”

*-Message to Enforcement Department Staff from a Senior*

# Protection of Seniors and Vulnerable Persons

The protection of Seniors and Vulnerable Persons continued to be an area of focus for the Enforcement Department in 2014. Approximately 17% of cases opened in 2014, and 33% of hearings commenced in 2014 involved these types of investors.

The Enforcement Department's screening guidelines focus on suitability and leverage in relation to Seniors and Vulnerable Persons. In addition, the MFDA's Public Affairs Department took the following action in respect of these groups:

- **Fraud Prevention Month.** In March, 2014, the MFDA participated in a Fraud Prevention Month kickoff event along with over fifteen other regulatory and law enforcement agencies. At the event, MFDA Staff made a short presentation to members of the public on tips to avoid investment fraud. The event was followed on YouTube and Twitter. MFDA Staff also created a [fraud prevention brochure](#) with tips to help investors detect and prevent fraud. The brochure was distributed to the public at the event and is available on the MFDA website.
- **For Seniors Section on MFDA Website.** The MFDA has a "For Seniors" section on its website which provides useful information and links relating to finance and seniors. The site contains a description of the MFDA complaints process and notes that processes are in place to ensure that complaints from Seniors are flagged and prioritized appropriately. It also has a description of the Ombudsman for Banking Services and Investments (OBSI) and notes that OBSI can make non-binding recommendations for compensation to investors in certain circumstances.
- **For Investors Section on MFDA Website.** The MFDA has a "For Investors" section on its website which provides an outline of the process by which a complaint can be made to the MFDA. It also provides an overview of the Enforcement Department and its functions, and provides a link to a page where the registration, activities, and disciplinary records of an advisor can be checked. The site also has a section on OBSI as well as the MFDA Investor Protection Corporation.



# Member Complaint Handling and Supervisory Investigations

Members have a duty to conduct reasonable supervision (i.e. supervision prior to any detection of a rule breach) on an ongoing basis to detect non-compliance. When Members become aware, from any source, of a possibility of a specific violation they have an obligation to conduct a reasonable supervisory investigation (i.e. where there has been a possible breach of rules) into the issue.

MFDA Policy No. 3 (Complaint Handling, Supervisory Investigations and Internal Discipline) states that Members have a duty to engage in an adequate and reasonable assessment of all complaints. In all cases opened in the Enforcement Department, MFDA Staff reviews Member supervision both before and after any detection of a rule-breach. MFDA Policy No. 3 details standards that a Member must meet to satisfy this duty, and it covers a range of topics including the duty to assess all complaints, fair handling of client complaints, prompt handling of client complaints and general complaint handling requirements.

At the request of Members, in 2014 the Enforcement Department held workshops on supervisory investigation best practices. In 2015, a workshop on complaint handling will also be held, and a guide on complaint handling and supervisory investigations will be produced.

## Complaint Handling

In 2014, the MFDA issued its first Notice of Hearing for a disciplinary hearing against a Member in which one of the allegations made was that the Member failed to ensure that a client complaint regarding losses sustained in various accounts was handled promptly and fairly. A Settlement Agreement in respect of this matter was approved by an MFDA Hearing Panel on April 13, 2015. It included an admission by the Member, Equity Associates Inc., that it failed to ensure prompt and fair handling of the client complaint.

In 2014, the MFDA completed three hearings against Approved Persons for violations relating to the handling of client complaints. In two of those cases, *Griffiths* and *Daues*, the Approved Person failed to report a complaint to the Member in violation of MFDA Policy No. 6 (Information Reporting Requirements). In a third case, *Lau*, the Approved Person settled a complaint directly with a client, contrary to MFDA Policy No. 3.

# Strengthening Compliance by Members and Approved Persons

## **Inter-Agency Collaboration**

Under its recognition orders with provincial securities regulators, the MFDA shall cooperate, by sharing information and otherwise, with the MFDA Investor Protection Corporation, and other Canadian federal, provincial and territorial recognized self-regulatory organizations and regulatory authorities, including without limitation, those responsible for the supervision or regulation of securities firms, financial institutions, insurance matters and competition matters. MFDA By-law No. 1 also authorizes MFDA Staff to share information with law enforcement agencies. In 2014, the Enforcement Department worked closely with police in several major investigations.

## **Continued use of Bulk Track**

Bulk Track proceedings promote efficiency through the bulk processing of similar case types before a single Hearing Panel at a single sitting. The efficient processing of cases has a deterrent effect on misconduct by making it known that certain types of conduct will result in rapid disciplinary action being taken by the MFDA. The specific case types suitable for the Bulk Track are not a closed category and may change over time as trends emerge and regulatory priorities change. In 2014, Bulk Track cases continued to focus on signature cases, an important priority area for the Enforcement Department, and one that Members address proactively in their ongoing supervisory activities.

## **Memoranda of Understanding**

In 2014, the MFDA entered into memoranda of understanding with the Financial Services Commission of Ontario and the Life Insurance Council of Saskatchewan. The memoranda of understanding were entered into with the aim of improving cooperation between the MFDA and these regulatory bodies, as well as facilitating the sharing of information.

## **Guidance for Members**

Information about violations the Enforcement Department identifies in the course of its activities is used for the purpose of Member education. The Enforcement Department coordinates with MFDA Member Education to develop guidance to assist Members in avoiding future breaches of MFDA Rules, By-laws, and Policies.

# Case Highlights

## **Compensation to Clients: Daues, Byron**

Reasons for Decision: September 4, 2014

*Involved Seniors*

Byron Daues (Daues) borrowed \$40,000 from a client, which he failed to repay. In a Settlement Hearing the Hearing Panel found that commencing in July 2011, Daues engaged in personal financial dealings with a client giving rise to a conflict of interest or potential conflict of interest, which he failed to address by the exercise of responsible business judgment influenced only by the best interests of the client. The Hearing Panel also found that Daues failed to report a number of events, each of which constituted a complaint in respect of personal financial dealings with a client, to the Member. The Hearing Panel approved terms of settlement imposing a lump sum payment to a client of all the money owed to her pursuant to the judgment she obtained against him, as well as a two-month suspension from conducting securities-related business while in the employ of, or associated with, any MFDA Member, and a fine of \$10,000. Daues ultimately repaid the money owing to the client.

## **Compensation to Clients: Fried, Mervyn**

Reasons for Decision: November 10, 2014

*Involved Seniors*

Mervyn Jacheil Fried (Fried) failed to use due diligence to learn the essential facts relative to two clients and two joint accounts he opened for them, engaged in authorized discretionary trading in the two joint accounts, and failed to ensure the trades made in those accounts were suitable. Fried also collected fees from clients in respect of business conducted on behalf of the Member, among other things. The Hearing Panel approved a Settlement Agreement in which the Respondent was, among other things, prohibited from re-applying for registration as an Approved Person or conducting securities-related business while in the employ of or associated with any MFDA Member for a period of four months, ordered to pay a fine of \$30,000, ordered to make a voluntary payment to two clients in the amount of \$25,000, and ordered to pay costs of \$10,000.

### **Suitability: Villarin, Dennis**

Reasons for Decision: July 9, 2014

*Involved Vulnerable Persons*

Between March 2006 and February 2008, Dennis Villarin (Villarin) recommended a leveraged investment strategy in client accounts, where the clients used borrowed money to purchase return of capital mutual funds. A Hearing Panel found that Villarin prepared and submitted documents for seven of these clients, which among other things, inflated market values of properties and reported assets that did not exist. The Hearing Panel also found that Villarin failed to explain that the investment strategy had associated material risks, that none of the clients could afford to pay the costs associated with the strategy, and that Villarin failed to cooperate with the investigation carried out by MFDA Staff. The Hearing Panel imposed the following penalties on Villarin: a permanent prohibition on his authority to conduct securities-related business while in the employ of or associated with any MFDA Member; a fine of \$250,000; and costs of \$10,000.

Villarin organized three other Approved Persons (Arsenio Sobrevilla, Donato Gragasin, and Collin Sulkers) to engage in similar conduct targeting the same community. All four Approved Persons' disciplinary proceedings took place before the same Hearing Panel and the Reasons for Decision for all three cases were released on July 9, 2014.

### **Suitability: Pretty, Arthur George**

Reasons for Decision (Penalty): July 2, 2014

Reasons for Decision (Misconduct): January 30, 2014

*Involved Seniors*

A Hearing Panel found that Arthur George Pretty (Pretty) recommended a leveraged investment strategy without ensuring that the strategy was suitable for the clients involved. The Hearing Panel also found that Pretty failed to adequately explain the benefits, risks, material assumptions, and features of the strategy to the clients. This conduct occurred between March 2005 and July 2008. The Hearing Panel also found that commencing in September 2010, Pretty failed to cooperate with the investigation of MFDA Staff. The Hearing Panel imposed the following penalties against Pretty: a fine of \$125,000; a ten-year prohibition on Pretty conducting securities - related business with an MFDA Member; and costs of \$5,000.

### **Outside Business Activities: Brauns, Peter**

Reasons for Decision (Penalty): February 4, 2014

Decision and Reasons (Misconduct): October 15, 2013

*Involved Seniors*

Peter Haralds Brauns (Brauns) solicited money from multiple clients and individuals to fund a hotel venture in Latvia. Brauns accepted a general power of attorney for property for client VK in 2007, an appointment as co-estate trustee for client LJ, and an appointment as co-estate trustee for client VK. The Hearing Panel found that Brauns's borrowing gave rise to conflicts of interest between Brauns and the clients whom he borrowed from, which Brauns failed to ensure were addressed by the exercise of responsible business judgment influenced only by the best interests of the clients. Brauns was found to have conducted a securities-related business not carried on for the account and through the facilities of the Member, and he was found to have failed to ensure that a conflict of interest between his interests and those of his clients was addressed by the exercise of responsible business judgment influenced only by the best interests of his clients. The Hearing Panel imposed the following penalties on Brauns: a permanent prohibition on his authority to conduct securities-related business for a Member of the MFDA; an order that within 18 months, he pay a fine of \$850,000 less amounts paid to specified individuals as referenced in the Notice of Hearing; and an order that he pay costs in the amount of \$30,000 within 12 months.

**“The misconduct here was serious. It extended over a lengthy period of time. It involved multiple clients and multiple breaches of the rules. Several of the Respondent’s clients were particularly vulnerable.”**

*-Hearing Panel in Brauns*

# Hearings Concluded by Type of Primary Allegation

## Blank Signed Forms

William James Clarke  
Adeolu Akinbola Durotoye  
Menashe Keshet  
Michael McKale  
Duane Roy  
Ashutosh Kumar Singh  
Sofela Kehinde Sowunmi

## Failure to Cooperate

Alain Theroux

## Falsification/ Misrepresentation

Michael Kant  
Barbara Man  
Brodie James Pattenden  
Saifur Sarker  
Arsenio Sobrevilla (Involved Vulnerable Persons)  
Dennis Villarin (Involved Vulnerable Persons)

## Financial Requirements

Triglobal Capital Management Inc.

## Forgery/ Fraud/ Theft/ Misappropriation/

### Misapplication

Estrella Ogalino  
Reginald Roskaff (Involved Seniors)  
Jacques James Scribnock (Involved Seniors)  
Robert Andrew Shaw (Involved Vulnerable Persons)  
Jeremy Stones

## Outside Business Activities

Donald Everett Andrews  
Ellen Grace Batac  
Lodovico Angelo Cavan  
Alfonso Chin  
William Cormylo (Involved Seniors)  
Penny Deming  
Hazel Gaminde

## Murray Greenberg

Stuart Henschel (Involved Seniors)  
Barry Hunt  
Dandy Macareg  
Cesar Martin  
Bruce Mawer  
Lilibeth Ocampo  
Robert Bruce Rush  
Mahmoud Visanji (Involved Vulnerable Persons)  
Jeffrey Hanford Harold Young

## Personal Financial Dealings

Blair Addison  
Peter Haralds Brauns (Involved Seniors)  
Felizaida Yancha Colinares  
Byron Daues (Involved Seniors)  
Angie Lau

## Stealth Advising

Blair Roche

## Suitability - Investments

Mervyn Fried (Involved Seniors)

## Suitability - Leveraging

Donato Gragasin (Involved Vulnerable Persons)  
Colin Sulkers (Involved Vulnerable Persons)

## Supervision

Katrina Anne Powell

## Unauthorized/ Discretionary Trading

Robert Laurie Bowness  
Bradley Griffith (Involved Vulnerable Persons)  
Peter Izzio

# Member Education

The Enforcement Department is part of the MFDA's overall efforts to provide ongoing Member education. In 2014, the Enforcement Department conducted many workshops for Members on conducting a reasonable supervisory investigation, and held multiple events where Members were given a detailed overview of how the Enforcement Department operates. These events took place at Member offices across Canada.

**“Just a quick note to thank you and your team for hosting the session today. Opening your doors and providing an opportunity for both teams to meet, review, and identify on-going issues, trends and concerns was extremely valuable...”**

*-Message to Enforcement Department Staff from a Member*

# Glossary

## Approved Person

An Approved Person is defined by the MFDA as being an individual who is a partner, director, officer, compliance officer, branch manager, or alternate branch manager, employee or agent of a Member who (i) is registered or permitted, where required by applicable securities legislation, by the securities commission having jurisdiction, or (ii) submits to the jurisdiction of the MFDA.

## Canadian Securities Administrators

The Canadian Securities Administrators (CSA) is an umbrella organization of provincial and territorial securities regulators in Canada. The CSA aims to achieve consensus on policy decisions affecting the Canadian capital market and its participants. The CSA does not handle complaints regarding securities violations; this is left to individual provincial or territorial regulators.

## Know Your Client

The Know Your Client (KYC) rule requires that a firm and advisor collect various pieces of information about a client so as to assist in making suitable investment recommendations. The information that should be collected includes: age, annual income, net worth, investment objectives, time horizon, investment knowledge, and risk tolerance.

## Leveraging

Leveraging refers to the practice of using borrowed money for the purpose of investing.

## Member

Canadian securities regulatory authorities outside the province of Quebec require that all mutual fund dealers be members of an SRO. Accordingly, businesses seeking to operate as mutual fund dealers must apply for membership in the MFDA.

## Ombudsman for Banking Services and Investments

The Ombudsman for Banking Services and Investments (OBSI) resolves disputes between participating banking services and investment firms, and their customers. Clients who are unsatisfied by the response of their firm to a complaint can bring the matter to OBSI. If OBSI decides that a firm has acted unfairly, made an error or given bad advice, and the customer lost money as a result, OBSI can make a recommendation that the customer be compensated.



### Outside Business Activities

Outside Business Activities (OBA) refers to any business carried on by an Approved Person other than business done on behalf of the Approved Person's MFDA Member firm. Provincial securities legislation generally requires full disclosure of any OBA and prior approval of it from the applicable provincial securities administrators.

### Personal Financial Dealings

Personal Financial Dealings (PFD) refers to situations in which an Approved Person or Member engages in business with a client. A concern arising from this type of conduct is that conflicts of interest might arise in connection with such activity. PFD can include borrowing from clients, lending to clients, and engaging in private investment schemes with clients.

### Senior

Seniors are defined by the MFDA (for statistical purposes) as investors 60 years of age or over.

### Suitability

Securities legislation and MFDA rules require that recommendations made by an advisor be suitable in relation to a client's investment objectives, risk tolerance and other personal circumstances.

### Vulnerable Person

Vulnerable Persons are those considered by the MFDA (for statistical purposes) to be particularly at risk due to circumstances such as language barriers, limited literacy, disability issues, or very limited financial resources.

# Resources

## Further Information

The MFDA website has additional information including with respect to the following areas:

- [Opening an Investment Account](#)
- [Protecting Yourself from Fraud](#)
- [Guide to the Hearing Process](#)
- [Penalty Guidelines](#)
- Enforcement Hearings (including [Hearings Schedule](#), [Current Cases](#), [Completed Cases](#) and [Cases Under Review/Appeal](#))
- Hearing Procedures (including [Rules of Procedure](#) and [Forms](#))
- Related By-Law Sections (Sections 18 – 26)
- [Enforcement Statistics](#)
- [For Seniors](#)
- [For Investors](#)

## How to File a Complaint

Information on how to file a complaint about a Member or Approved Person can be found at <http://www.mfda.ca/investors/complaints.html>. Investors can complain electronically by emailing [complaints@mfda.ca](mailto:complaints@mfda.ca), by using the complaint form available on the website or by calling MFDA complaints at 416-361-6332 (toll-free: 1-888-466-6332).

## Other Resources

### Ombudsman for Banking Services and Investments

Any action taken by the MFDA will not include an order that investors be compensated for any financial losses they may have suffered. Additionally, the MFDA is unable to assist clients with civil claims. Investors who wish to pursue financial compensation may wish to consult with the Ombudsman for Banking Services and Investments ([www.obsi.ca](http://www.obsi.ca) or 1-888-451-4519) or a lawyer.

### National Registration Search

In Canada, anyone trading securities or in the business of advising clients on such securities must be registered with the provincial or territorial securities regulator, unless an exemption applies. Check the [National Registration Search](#) to find out if an individual or firm is registered in your province or territory and what product and services a firm or individual can offer or contact your provincial securities regulator.

### Disciplined Persons List

The Canadian Securities Administrators (CSA) maintains a cross-jurisdictional [Disciplined Persons List](#), which can be used to search for any disciplinary action taken against an individual by a provincial securities regulator or self-regulatory organization, including the MFDA.

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