

**13.1.4 IDA Amendments to Complaint Handling Requirements – Client Complaint Handling Rule and Guidance Note and Amendments to By-laws 19 and 37 and Policy No. 2**

**INVESTMENT DEALERS ASSOCIATION OF CANADA -  
AMENDMENTS TO COMPLAINT HANDLING REQUIREMENTS - CLIENT COMPLAINT HANDLING RULE  
AND GUIDANCE NOTE AND AMENDMENTS TO BY-LAWS 19 AND 37 AND POLICY NO. 2**

**I OVERVIEW**

This proposed rule seeks to establish specific requirements for the client complaint handling process. The rule sets out specific standards and timelines to be adhered to in acknowledging, investigating and responding to client complaints that allege misconduct relating to the handling of the client's account(s). The rule also requires the Member firm to adequately inform the client of all the subsequent options available to them should the client be dissatisfied with the final response from the Member firm.

**A CURRENT RULES**

Current IDA Policy No. 2, Section VIII, sets out general requirements for the handling of retail client complaints. These requirements mandate that Member firms create procedures to deal effectively with client complaints matters including client communications, complaint recordkeeping, internal disciplinary action, and, where appropriate, complaint escalation to senior management.

**B THE ISSUE**

Based on investor feedback at an Ontario Securities Commission Town Hall meeting and at other forums and venues, there is a clear need to improve the complaint handling process to ensure that clients are aware of the process they should follow should they have a complaint and to ensure the fair and prompt handling of complaints at Member firms.

**C OBJECTIVE**

The objective of the proposed amendments is to establish specific requirements for the handling of client complaints. The proposed amendments will replace the current general requirements set out in IDA Policy No. 2, Section VIII.

**D EFFECT OF PROPOSED RULES**

The intended effect of the proposed amendments is to create minimum standards for the fair and prompt handling of client complaints.

It is not anticipated that there will be a significant effect on Members or non-Members, market structure or competition.

There will be additional costs associated with Members handing/sending out the IDA approved complaint handling process brochure at time of account opening, complaint acknowledgement and substantive response. It is believed that the benefits associated with greater client awareness of the complaint handling process are significantly greater than these additional costs.

**II DETAILED ANALYSIS**

**A CURRENT RULES, RELEVANT HISTORY AND PROPOSED POLICY**

**Current rules**

IDA Policy No. 2, Section VIII sets out general requirements for the handling of retail client complaints. The current policy requires Member firms to establish procedures to effectively deal with client complaints including the acknowledgement of all written complaints; conveying the results of its investigation to a client in due course; sales practice complaints must be in writing and signed by the client and then handled by sales supervisors or compliance staff; and written submissions must be filed with the compliance department. In addition, there are complaint recordkeeping requirements and procedures that must be put in place for internal disciplinary action and the escalation of complaints to senior management when necessary.

**Relevant history**

In May 2005, the Ontario Securities Commission (OSC) held an Investor Town Hall. A panel of representatives from the Investment Dealers Association (IDA), the Mutual Fund Dealers Association (MFDA), the Ombudsman for Banking Services and Investments (OBSI), the Small Investor Protection Association (SIPA) and the OSC listened to the concerns of retail investors. Investors emphasized what is essential in a regulatory regime - accountability, transparency, fairness, and effectiveness. A

commitment to address these concerns resulted in the formation of a joint working committee of executives and senior management from the OSC, the OBSI, the MFDA, and the IDA to analyse the issues and develop solutions. One of the most significant concerns identified was complaint handling - both process transparency and timeliness.

To begin to address the concerns expressed with the complaint handling process, the IDA issued a Member Regulation Notice (MR0441) in December 2006. The objective of the notice was to detail the IDA's current complaint handling rules and expectations and to outline best practices that Member firms should consider adopting. The notice also indicated that the IDA expected to submit to the OSC and other CSA jurisdictions, changes to its complaint handling rules which would include complaint handling timelines, a possible requirement to designate one or more individuals to oversee the Member's complaint handling process and further clarification on the IDA's complaint handling standards.

## **Proposed rule**

### ***Complaint handling rule scope***

The proposed rule is targeted to the handling of retail client complaints alleging misconduct in the handling of their account or accounts. As such, a complaint subject to this rule:

- must be submitted by a client or a person authorized to act on behalf of a client;
- may be either a recorded expression of dissatisfaction or a verbal expression of dissatisfaction; and
- must allege misconduct in the handling of their account or accounts.

What is considered alleged misconduct includes, but is not limited to, allegations of theft, fraud, misappropriation of funds or securities, forgery, unsuitable investments, misrepresentation or unauthorized trading involving the client's account(s).

### ***Designated Complaints Officer to oversee complaint handling process***

The proposed rule will require a Member firm to appoint a Designated Complaints Officer (DCO) with the knowledge, experience, and authority to manage the complaint handling process and to act as a liaison with the IDA. The DCO need not be a registered individual position. Member firms may choose to name the Chief Compliance Officer or the Ultimate Designated Person or an individual acting in a supervisory capacity over the complaints process for the DCO position.

### ***Specific standards and procedures handling timeline***

As part of the proposed amended rule, Member firms will be required to establish procedures and standards. In addition to having written complaint handling procedures in place, Member firms must facilitate client access to their complaint handling process by making available a written summary of the firms' complaint handling procedures (either on their website or by other means). The written summary must provide contact information for complaint submission and the designated complaints officer.

Both the acknowledgement letter and the substantive response letter have several requirements that all firms must include in the respective correspondence. The acknowledgement letter must be sent to a client within five (5) business days of receipt of a complaint. The initial response to the client must consist of the following, the contact information of the individual handling the complaint; a statement that a client may contact the above noted individual for a status update; an explanation of the internal complaint handling process; a reference to an attached copy of an IDA approved complaint handling process brochure and a reference to the statute of limitations contained in the document; the maximum 90 days timeline to provide a substantive response; and a request for any information reasonably required to resolve the complaint.

The substantive response letter must be accompanied by an IDA approved complaint handling process brochure and be sent to a client as soon as possible, but no later than 90 days from the date of receipt by the firm. A Member is obligated to advise a client if a final response will not be sent within the stated timeline in addition to contacting the IDA with an explanation for the delay. The substantive response must comprise the following elements, a summary of the complaint; results of the investigation; the final decision with an explanation; and a statement delineating the options available if a client is unsatisfied with a Member's response.

There is also a duty to assist in client complaint resolution for both Approved Persons and Member firms. Approved Persons must co-operate after moving to a different firm and Member firms must do likewise if events relating to a complaint occurred at more than one Member or the Approved Person is an employee or agent of another firm.

### ***Settlement agreements***

Confidentiality restrictions in a settlement agreement must not restrict a client from initiating a complaint or continuing with any pending complaint in progress or participating in any further proceedings.

### ***Complaint record retention***

Complaint record retention requires the maintenance of files for seven (7) years and in a central readily accessible place for two (2) years. Information to be retained includes the complainant's name, the date of the complaint; the name of the individual who is the subject of the complaint; the security or services which are the subject of the complaint; the materials reviewed in the investigation; the name, title, and date individuals were interviewed for the investigation; and the date and conclusions of the decision.

### ***Internal discipline***

Procedures must be established to ensure appropriate internal disciplinary measures are applied for breaches of rules, policies, by-laws, and regulations of the IDA as well as applicable securities legislation.

The rule when implemented will replace IDA Policy No. 2, Section VIII, which currently sets out general complaint handling requirements. The rule does not duplicate certain requirements that are currently set out in IDA Policy No. 8 relating to the handling of complaints generally and therefore will be applied in conjunction with the requirements set out IDA Policy No. 8.

### **Corollary amendments to By-law Nos. 19 and 37**

In order to accommodate the elimination of IDA Policy No. 2, Section VIII, some corollary amendments must be made to:

- eliminate in IDA By-law No. 19.4 a requirement to maintain for twenty-four (24) months of an up-to-date record in a central place of all written complaints - this requirement is now contained within the proposed rule; and
- eliminate in IDA By-law No. 37.3 a requirement to provide the client with a copy of the IDA approved complaint handling process brochure at time of account opening or when the client submits a complaint - this requirement is now contained within the proposed rule and has been expanded to also require that the client be provided with a copy of the IDA approved complaint handling process brochure when the substantive response is provided to a client on a complaint they've submitted.

## **B ISSUES AND ALTERNATIVES CONSIDERED**

During our consultations with the Compliance and Legal Section (CLS), an IDA advisory committee, a concern was raised that the scope of the complaint definition was too broad so as to permit anyone to file a complaint of any nature which would require investigation. To address this concern, IDA staff have agreed to restrict the definition of "complaint" for the purposes of the proposed rule to expressions of dissatisfaction by a client or a person authorized to act on behalf of the client relating to the handling of their account(s). The requirements set out in Policy No. 8 will continue to apply to a broader range of complaints and other matters such as registration and civil claims.

In drafting the newly created position of Designated Complaints Officer (DCO), IDA staff considered mandating registration of the position. After much consideration, it was deemed unnecessary as the objective of the rule is to name an individual with the knowledge, experience, and authority to manage complaint handling, not to hold the DCO exclusively responsible for complaint handling - the proper handling of complaints is an overall firm responsibility.

The issue of what processes would be considered internal processes under the rule was also discussed. Specifically, a number of financial institution groups offer a centralized internal ombudsman process to clients of all institutions within the financial institution group. Offering this process to clients is not required by legislation. However, because the process is offered centrally to clients of all institutions within a number of financial institution groups, the affected Member firms indicated that they did not have control over the time taken in the internal ombudsman process and therefore argued that this process should not be included in determining compliance with the proposed maximum complaint handling timeline.

As a result, the IDA Board of Directors considered two options:

- (1) The original proposal to set a maximum six (6) months<sup>1</sup> timeline for the completion of all internal complaint handling processes (**including** any internal ombudsman process offered by the firm or its affiliates); or

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<sup>1</sup> As Member firms currently send a substantive response to clients within six (6) months 81% of the time, it was concluded that this time frame was an appropriate starting point. There was an intention if this option was pursued of shortening this timeline over time.

- (2) A proposal to set a maximum ninety (90) day timeline for the completion of all internal complaint handling processes (**excluding** any internal ombudsman process offered by an affiliate of the firm).

The Board has decided to propose the second option provided:

- (1) Where an affiliate of a Member firm offers an internal ombudsman process, the client is informed when the substantive response letter is issued:
- (a) that the use of the internal ombudsman process is not mandatory;
  - (b) the estimated / maximum time the process is expected to take; and
  - (c) that the selection of the internal ombudsman process by the client may leave little remaining time in the statute of limitation period.

and:

- (2) Where after ninety (90) days, either a substantive response has not been issued or the complaint is still being considered within an affiliate offered internal ombudsman process, the client is informed that the option of the Ombudsman for Banking Services and Investments (OBSI) considering their complaint is now available.

## **C COMPARISON WITH SIMILAR PROVISIONS**

### **United Kingdom**

The Financial Services Authority (FSA) has rules relating to the internal handling of complaints by firms and licensees, including the procedures which a firm must put in place; the time limits within which a firm must deal with a complaint; the referral of complaints; the records of a complaint which a firm must make and retain; and the requirements on a firm to report information to FSA. This is to ensure that complaints are handled fairly, effectively, and promptly, and resolved at the earliest possible opportunity, minimizing the number of unresolved complaints which need to be referred to the Financial Ombudsman Service. This purpose is consistent with the FSA's consumer protection regulatory objective.

It is mandated that a firm must have appropriate and effective internal complaint handling procedures in place for dealing with complaints. A complaint is defined as any expression of dissatisfaction, whether oral or written, and whether justified or not, from or on behalf of an eligible complainant about provision of, or failure to provide, a financial service.

In establishing internal complaint handling procedures, it is suggested that firms review ISO 10002:2004(E), *Quality management. Customer satisfaction. Guidelines for complaints handling in organizations*. Internal complaint handling procedures should include the following: receiving complaints; responding to complaints; referring complaints to other firms; the appropriate investigation of complaints; and notifying complainants of their right to go to the Financial Ombudsman Service.

A firm must send a written acknowledgement to the complainant within five (5) business days of receipt. Firms should attempt to resolve complaints at the earliest possible stage. Within four (4) weeks of receiving a complaint a firm must either send a final response or a holding response advising why the firm is not in a position to decide the complaint and when further contact will be made (within eight (8) weeks of receipt of the complaint). At the end of eight (8) weeks, the firm must send either a final response or a response which explains that the firm is still not in a position to make a final response, provides reasons for the extended delay, and indicates when it expects to be able to furnish a final response. If a final response is not sent within eight (8) weeks, the client must be advised that he/she need not wait to refer the complaint to the ombudsman. The complainant may decide to give the firm more time before exercising any right to refer a complaint to the Financial Ombudsman Service. When a firm sends its final response, the client must be informed that if dissatisfied, he/she has six (6) months to refer the complaint to the Financial Ombudsman Service. In either case, a copy of the Financial Ombudsman Service's explanatory leaflet must be enclosed in the correspondence.

### **United States**

The complaint related rules of the Financial Industry Regulatory Authority (FINRA) direct the client toward the arbitration and/or mediation processes. Critics in the U.S. are demanding an overhaul of the system to allow clients to seek redress in a court of law.

FINRA advises that the first course of action should be to report a discrepancy or a disagreement to the broker's manager. Management may take steps that will resolve the problem quickly. If the brokerage firm's management does not resolve a complaint within a reasonable period, it is suggested that a client seek legal advice. Mediation should be the first step in the dispute resolution process. If efforts to settle a dispute are unsuccessful, arbitration should be a consideration. The new account

agreement may contain a clause that requires a client to use the arbitration process. Therefore, access to courts may be limited. It should be noted that arbitration decisions are final. Arbitrators cannot reconsider decisions even if new evidence is found. Although an arbitration decision may be challenged in court, decisions are rarely reversed.

#### **D SYSTEMS IMPACT OF RULE**

It is not expected that there will be a major systems impact on Members as a result of the proposed amendments. To meet the timelines set out in the proposed rule, Member firms must be aware of complaint aging. It is anticipated that Members may use the Complaints and Settlement Reporting System (ComSet) to track the aging of complaints that are in process.

#### **E BEST INTERESTS OF THE CAPITAL MARKETS**

The Board has determined that the public interest rule is not detrimental to the best interests of the capital markets.

#### **F PUBLIC INTEREST OBJECTIVE**

According to the IDA's Order of Recognition as a self-regulatory organization, the IDA shall, where requested, provide in respect of a proposed rule change, "a concise statement of its nature, purposes (having regard to paragraph 13 above) and effects, including possible effects on market structure and competition". Statements have been made elsewhere as to the nature and effects of the proposal with respect to the introduction of proposed amendments.

The purposes of the proposal are to:

- promote the protection of investors, just and equitable principles of trade and high standards of operations, business conduct and ethics;
- generally promote public confidence and public understanding of the goals and activities of the IDA;
- standardize industry practices where necessary or desirable for investor protection; and
- for such other purposes as may be approved by the Commission.

The proposal does not permit unfair discrimination among customers, issuers, brokers, dealers, members or others. It does not impose any burden on competition that is not necessary or appropriate in furtherance of the above purposes.

### **III COMMENTARY**

#### **A FILING IN OTHER JURISDICTIONS**

These proposed amendments will be filed for approval in Alberta, British Columbia, Quebec and Ontario and will be filed for information in Manitoba, Newfoundland and Labrador, Nova Scotia and Saskatchewan.

#### **B EFFECTIVENESS**

It is believed that the proposed rules and amendments will be effective in facilitating improvements to the Member firm's complaint handling processes to ensure that clients are aware of the process they should follow should they have a complaint and to ensure the fair and prompt handling of complaints.

#### **C PROCESS**

The proposed policies and amendments were developed in consultation with the CLS Complaint Handling Ad Hoc Subcommittee the Compliance and Legal Section.

### **IV SOURCES**

#### **References**

- IDA Policy No. 2 Minimum Standards for Retail Account Supervision (Section VIII, Client Complaints)  
<http://ida.knotia.ca/Knowledge/View/Document.cfm?Ktype=445&linkType=toc&dbID=200710341&tocID=730>
- IDA By-law No. 19 Examinations and Investigations  
<http://ida.knotia.ca/Knowledge/View/Document.cfm?Ktype=445&linkType=toc&dbID=200710341&tocID=270>

- IDA By-law No. 37 Alternative Dispute Resolution  
<http://ida.knotia.ca/Knowledge/View/Document.cfm?Ktype=445&linkType=toc&dbID=200710341&tocID=438>
- IDA Member Regulation Notice MR0441  
<http://ida.knotia.ca/Knowledge/View/Document.cfm?Ktype=445&linkType=toc&dbID=200706346&tocID=35>
- IDA Member Regulation Notice MR0076 (Amended)  
<http://ida.knotia.ca/Knowledge/View/Document.cfm?Ktype=445&linkType=toc&dbID=200706346&tocID=609>
- Proposed National Instrument 31-103 and Proposed Companion Policy 31-103
- ISO Standard 10002-2004(E)

**V OSC REQUIREMENT TO PUBLISH FOR COMMENT**

The IDA is required to publish for comment the accompanying proposed rules and amendments so that the issue referred to above may be considered by OSC staff. The Association has determined that the entry into force of the proposed rules and amendments would be in the public interest. Comments are sought on the proposed rules and amendments. Comments should be made in writing. One copy of each comment letter should be delivered within 30 days of the publication of this notice, addressed to the attention of Leslie Pearson, Legal and Policy Counsel, Investment Dealers Association of Canada, Suite 1600, 121 King Street West, Toronto, Ontario, M5H 3T9 and one copy addressed to the attention of the Manager of Market Regulation, Ontario Securities Commission, 20 Queen Street West, 19<sup>th</sup> Floor, Box 55, Toronto, Ontario, M5H 3S8.

Questions may be referred to:

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**INVESTMENT DEALERS ASSOCIATION OF CANADA**

**AMENDMENTS TO COMPLAINT HANDLING REQUIREMENTS - CLIENT COMPLAINT HANDLING RULE AND GUIDANCE NOTE AND AMENDMENTS TO BY-LAWS 19 AND 37 AND POLICY NO. 2**

**BOARD RESOLUTION**

THE BOARD OF DIRECTORS of the Investment Dealers Association of Canada hereby makes the following amendments to the By-laws, Regulations, Forms and Policies of the Association:

1. A new rule and guidance note<sup>2</sup> on the complaint handling process is enacted as follows:

**“RULE XXXX**

**Client Complaint Handling**

**1. Introduction**

This rule establishes minimum requirements for the client complaint handling process including timely complaint resolution, record retention, and internal discipline. Clients who are considered to be institutional clients pursuant to Policy 4 are not subject to this rule. There are additional requirements set out in Policy 8 that are also applicable to the processes of handling client complaints.

**2. General**

A “complaint” subject to this rule must be submitted by a client or a person authorized to act on behalf of a client and is deemed to include:

- A recorded expression of dissatisfaction with a Member firm or employee or agent alleging misconduct; and
- A verbal expression of dissatisfaction with a Member firm or employee or agent alleging misconduct that would reasonably necessitate an investigation based on the circumstances of the complainant, or the nature or severity of the alleged misconduct.

Alleged misconduct would include but is not limited to allegations of theft, fraud, misappropriation of funds or securities, forgery, unsuitable investments, misrepresentation, or unauthorized trading relating to the client’s account(s).

Complaints are to be handled by sales supervisors or compliance staff (or the equivalent) and a copy must be filed with the compliance department / function (or the equivalent) of the Member.

**3. Designated complaints officer**

The Member must appoint an individual to act as the designated complaints officer. The individual must have the requisite experience and authority to oversee the complaint handling process and to act as a liaison with the IDA.

**4. Complaint procedures / standards**

**Establish written procedures for dealing with complaints**

Members must have written procedures to ensure that complaints are dealt with effectively, fairly and expeditiously.

Each Member must put procedures in place so that its senior management is made aware of complaints of serious alleged misconduct.

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<sup>2</sup> The IDA is in the midst of a project to rewrite its Rule Book. As part of this project, IDA requirements currently referred to as by-laws, regulations, policies and forms are being rewritten as rules, policies and guidance notes. This proposal has been drafted using the new Rule Book format. Should these proposals be made effective prior to the implementation of the new Rule Book format, the rule and the guidance note being proposed will be implemented on an interim basis as a regulation and a member regulation notice, respectively.

When a Member reasonably determines that the number and / or severity of complaint(s) is significant, internal procedures and practices must be reviewed, with recommendations to be submitted to the appropriate management level.

**Client access to complaint process**

At time of account opening, Members must provide new clients with:

- a written summary of the Member's complaint handling procedures, which is clear and can be easily understood by clients; and
- a copy of an IDA approved complaint handling process brochure.

On an ongoing basis, Members must make available to their clients (either on their website or by other means) a written summary of the Member's complaint handling procedures, so that clients can stay informed on how to submit a complaint.

**Complaint acknowledgement letter**

The Member must send an acknowledgement letter to the complainant within five (5) business days of receipt of a complaint.

The acknowledgement letter must include the following:

- (a) The name, job title, and full contact information of the individual at the Member firm handling the complaint;
- (b) A statement indicating that the client should contact the individual at the Member firm handling the complaint if he / she would like to inquire about the status of the complaint;
- (c) An explanation of the Member's internal complaint handling process, including but not limited to the role of the designated complaints officer;
- (d) A reference to an attached copy of an IDA approved complaint handling process brochure and a reference to the statutes of limitations contained in the document;
- (e) The ninety (90) days timeline to provide a substantive response to complaints; and
- (f) A request for any information reasonably required to resolve the complaint.

**Complaint substantive response letter**

The Member must send a substantive response letter to the complainant. The substantive response letter must be accompanied by a copy of an IDA approved complaint handling process brochure.

Members must respond to client complaints as soon as possible and no later than ninety (90) days from the date of receipt by the firm. The ninety (90) days timeline must include all internal processes (with the exception of any internal ombudsman processes offered by an affiliate of the firm) of the Member that are made available to the client. The client must be advised if he / she is not to receive a final response within the ninety (90) days time frame accompanied by reasons for the delay and the new estimated time of completion.

The Member is required to advise the IDA if it is unable to meet the ninety (90) days timeline and must provide reasons for the delay.

The substantive response to the client must include the following information:

- (a) A summary of the complaint;
- (b) The results of the Member's investigation;
- (c) The Member's final decision on the complaint, including an explanation; and



- (d) A statement describing to the client the options available if the client is not satisfied with the Member's response, including:
  - (i) arbitration;
  - (ii) if a request is made within 180 days from the date of the Member's final response, the ombudsperson service (i.e. OBSI);
  - (iii) submitting a regulatory complaint to the IDA for an assessment of whether disciplinary action is warranted;
  - (iv) litigation / civil action; and
  - (v) other applicable options.

In addition, where an internal ombudsman process is offered by an affiliate of the Member firm, the Member firm must disclose in the substantive response letter:

- (a) that the use of the internal ombudsman process is not mandatory;
- (b) the estimated / maximum time the process is expected to take; and
- (c) that the selection of the internal ombudsman process by the client may leave little remaining time in the statute of limitation period.

**Duty to assist in client complaint resolution**

Approved Persons must co-operate with Member firms where they were employed or acted as agent when moving to a different firm after events or activities resulted in a client complaint.

Member firms must co-operate with each other if events relating to a complaint took place at more than one Member or the Approved Person is an employee or agent of another Member firm.

**5. Settlement agreements**

A release entered into between a Member and a client may not impose confidentiality restrictions which prevents a client from initiating a complaint to the securities regulatory authorities, self regulatory organizations or other enforcement authorities, or continuing with any pending complaint in progress, or participating in any further proceedings by such authorities.

**6. Complaint record retention**

The complaint file must be maintained for seven (7) years and retrievable within a reasonable period of time.

Each Member must keep an up-to-date record in a central, readily accessible place of all recorded submissions and follow-up documentation received by it relating to the conduct, business, and affairs of the Member, or an employee or agent of the Member for a period of two (2) years from the date of receipt of the complaint.

The following information must be retained for each complaint:

- (a) The complainant's name;
- (b) The date of the complaint;
- (c) The name of the individual who is the subject of the complaint;
- (d) The security or services which are the subject of the complaint;
- (e) The materials reviewed in the investigation;
- (f) The name, title, and date individuals were interviewed for the investigation; and

(g) The date and conclusions of the decision rendered in connection with the complaint.

**7. Internal Discipline**

Each Member must establish procedures to ensure that breaches of the by-laws, regulations, rules and policies of the IDA as well as applicable securities legislation are subjected to appropriate internal disciplinary measures.

## GUIDANCE NOTE XXXX

### Client Complaint Handling

#### Definition of a complaint

##### **Decision to not investigate a complaint or to terminate an investigation of a complaint**

A sales supervisor / compliance staff or the equivalent may exercise their professional judgment in deciding whether a complaint requires an investigation. Complaints that in the judgment of the Member firm do not warrant an investigation need not be commenced. The decision and reason not to commence an investigation of a complaint must be fully documented and maintained in accordance with the complaint record retention requirements.

##### **Recorded expression of dissatisfaction**

A recorded expression of dissatisfaction includes any written submission, electronic communication, or verbal recording.

##### **Verbal expression of dissatisfaction**

A sales supervisor / compliance staff or the equivalent is expected to exercise professional judgment in deciding if a verbal expression of dissatisfaction relates to alleged misconduct that requires an investigation. Where a preliminary investigation of a verbal expression of dissatisfaction has been performed and the Member determines:

1. That there is evidence to indicate that the client complaint has some merit, the complaint should be treated in the same manner as a recorded expression of dissatisfaction, provided that prior to the issuance of a substantive response letter, the Member may require that the client document the complaint in a recorded form.
2. That the nature of the client complaint is unclear or there is no evidence to indicate that the client complaint has merit, the Member shall request that the client document and submit the complaint in a recorded form. Where the client:
  - (a) Documents and submits the complaint in recorded form, the complaint should be treated in the same manner as if it had originally been submitted as a recorded expression of dissatisfaction; or
  - (b) Fails to document and submit the complaint in recorded form, the Member may exercise their professional judgment and terminate their investigation of the complaint.

##### **Duty to assist clients in documenting complaints**

Member firms should be prepared to assist clients in submitting a complaint, in particular if the client has a physical disability or a language or literacy issue is involved.

##### **Designated complaints officer**

The designated complaints officer is not a registered individual position. The purpose of the position is to ensure that the Member has someone with the requisite knowledge, experience and authority in place to manage the proper handling of complaints.

Members may choose to name the Ultimate Designated Person or Chief Compliance Officer or an individual acting in a supervisory capacity over the complaints process for the position of designated complaints officer.

The Member firm should consider, at a minimum, the responsibilities for the designated complaints officer position as outlined in the 10002-2004(E), *Guidelines for Complaints Handling in Organizations*.

#### Complaint procedures / standards

##### **Client access**

The information provided to clients on an ongoing basis would include the first point of contact in submitting a complaint and the contact information for the designated complaints officer. The information provided may include the stipulation

that the designated complaints officer should generally only be contacted when a complaint had been submitted and the client wishes to express concerns with the handling of the complaint.

**Complaint substantive response letter - timelines**

The ninety (90) days timeline to provide a substantive response to clients must include all internal processes (with the exception of any internal ombudsman processes offered by an affiliate of the firm) of the Member that are made available to the client that involve but are not limited to the supervisory function / branch management, the compliance function, and legal review. As a result, should a Member firm offer its own internal ombudsman process, this would be subject to the ninety (90) days timeline.

**Complaint substantive response letter - OBSI information**

As a result of a change in policy at the Ombudsman for Banking Services and Investments (OBSI), co-incident with the development of these complaint handling standards, Member firms must inform clients that OBSI will consider a client complaint at the earlier of:

- (i) the date the complaint substantive response is provided to the client; or
- (ii) ninety (90) days after the receipt of the complaint.

This can be done, depending upon the status of the complaint, either as part of the substantive response letter or as part of any letter informing the client that the complaint will not be resolved within ninety (90) days.

**Complaint record retention**

Records in a central, readily accessible place must be retrievable within two (2) business days and documents kept for an extended period of time must be retrievable within five (5) business days unless there are reasonable, extenuating circumstances.”

2. By-law No. 19 is amended by repealing section 19.4 as follows:

“Each Member shall keep an up-to-date record in a central place of all written complaints received by it relating to the conduct, business and affairs of the Member, any registered representative, investment representative, branch manager, assistant or co-branch manager, sales manager, partner, director or officer, or any person employed by the Member, for a period of 24 months from the date of receipt of the complaint.”

3. By-law No. 37 is amended by repealing section 37.3 as follows:

“Each Member shall provide to new clients, and to clients who submit written complaints to the Member, a copy of the written material approved by the Association which describes the arbitration programme or organization approved by the Board of Directors pursuant to By-law 37.1 and the ombudsperson service approved by the Board of Directors pursuant to By-law 37.2.”

4. Policy No. 2, Section VIII is repealed.

BE IT RESOLVED THAT the Board of Directors adopt, on this 17<sup>th</sup> day of October, 2007, the English and French versions of these amendments. The Board of Directors also authorizes the Association Staff to make the minor changes that shall be required from time to time by the securities administrators with jurisdiction. These amendments shall take effect on the date determined by the Association Staff.