Investor Forum

Appendix B

Working together: The 2007 Investor Forum









Investor Forum Where to start!

Getting help with your investment complaint

- ▶ Robert Paddick, Senior Deputy Ombudsman, OBSI
- ► Alex Popovic, VP, Enforcement, IDA
- ▶ Shaun Devlin, VP, Enforcement, MFDA
- ▶ Joanna Fallone, Manager, Case Assessment, Enforcement, OSC

Investor Forum Where to start!

- Contact your advisor or firm
- Be clear about what went wrong and when
- State the outcome you expect
- If not satisfied with the response, ask about the firm's complaint process and follow the steps outlined

Investor Forum If that doesn't work...

- If you want money back: contact OBSI
- If you think an individual or firm has broken the rules: contact a regulator – IDA, MFDA, or OSC
- If both apply, contact OBSI and a regulator at the same time

Not sure? – contact any of us and we will make sure you get to the right place

OBSI Who We Are

- OBSI is a national, independent dispute resolution service for banking customers and retail investors
- We look at unresolved disputes between firms and clients: if we find a firm has acted unfairly, made an error or given you bad advice, we will recommend compensation
- OBSI covers more than 650 firms, including all member firms of the Investment Dealers (IDA) Association, the Mutual Fund Dealers Association (MFDA) and the Investment Funds Institute of Canada (IFIC)
- Our service is free to consumers

OBSI What We Do

- We consider the law, regulations, good industry practice and firm policies, but ultimately decide cases on the basis of fairness in the circumstance
- We work informally and confidentially to resolve disputes
- Major complaint areas are unsuitable investments, unauthorized transactions and DSC fees

OBSI Recommendations

- ▶ OBSI can recommend compensation up to \$350,000
- In some cases, we may recommend a solution that doesn't involve money, such as an apology or a corrected credit rating
- Recommendations are not binding on firms or clients but we have an excellent track record of firms and clients accepting our recommendations
- OBSI will publish a firm's refusal to follow a recommendation

OBSI What you need to do

- Contact us as soon as possible after getting the final response from the firm, but no later than 6 months after
- It's best to send us your complaint in writing
- Explain what went wrong and when
- Where possible, explain the amount you are seeking and why
- Include copies of the letters you have sent to and received from the firm
- We will acknowledge receipt of your complaint usually within one business day

OBSI Complaint Assessment

- We assess your complaint to determine if it is within our mandate
- If no, we will try refer you to an organization that can help you
- If yes, we will assign your file for review
- We may try to facilitate a settlement to resolve the dispute early

OBSI Complaint Investigation Process

If we open an investigation, we:

- Contact you to explain the process
- Have you and the firm sign an agreement to allow us to investigate and obtain a copy of your file from the firm
- Interview you, your advisor, firm representatives, and third parties as necessary
- Conduct additional research; review and analyze the information collected
- Complete a detailed report for review by you and the firm

OBSI Timely complaint handling

- We keep you updated during the review process
- Complex cases take longer to review
- Our target is to complete 80% of our files in 180 days and we are currently meeting this standard

MFDA / IDA Who We Are

- The Investment Dealers Association of Canada (IDA) is a national self-regulatory organization overseen by the Canadian securities commissions
- The Mutual Fund Dealers Association of Canada (MFDA) is the self-regulatory organization for mutual fund dealers

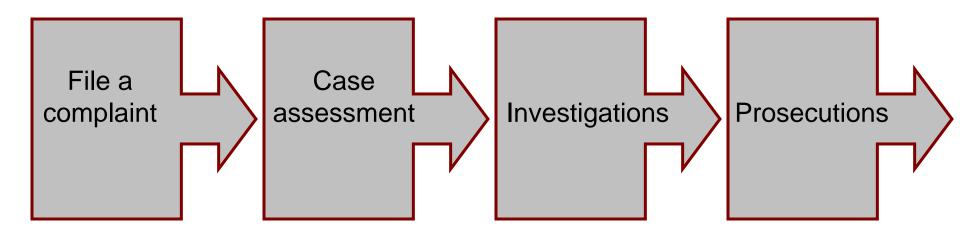
MFDA / IDA Who We Are

- ► The IDA regulates **214 investment dealers** and their **30,480 registered employees** in over 5,000 offices across the country
- The MFDA regulates 162 mutual fund dealers and their 70,000 registered employees across the country

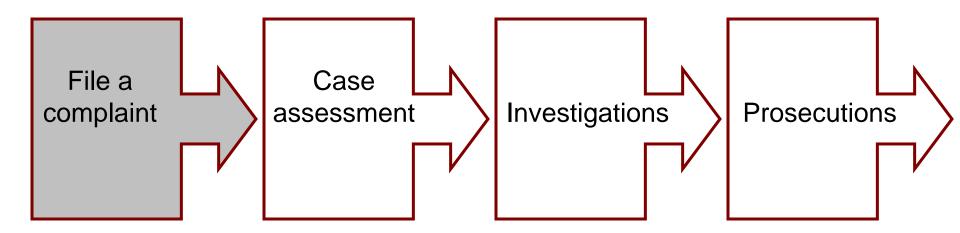
MFDA / IDA Who We Are

- The IDA's mission is to protect investors, foster market integrity and enhance the efficiency and competitiveness of the Canadian capital markets
- The MFDA's mission is to enhance investor protection and strengthen public confidence in the Canadian mutual fund industry

MFDA / IDA Making a complaint



MFDA / IDA Making a complaint

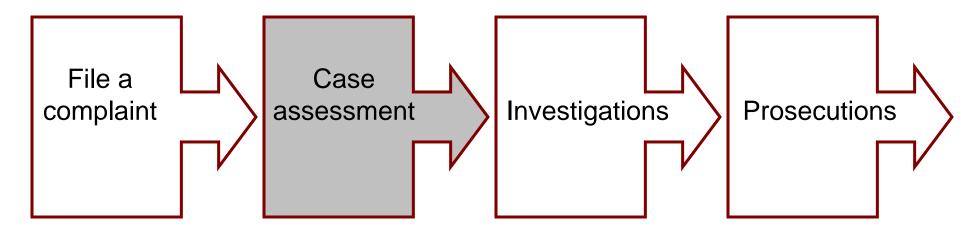


MFDA / IDA Making a complaint

 Our case assessment officers can help you make your complaint to us or direct you to another appropriate body

Remember - you can file a complaint with the IDA or MFDA and your firm **at the same time**

MFDA / IDA Case assessment



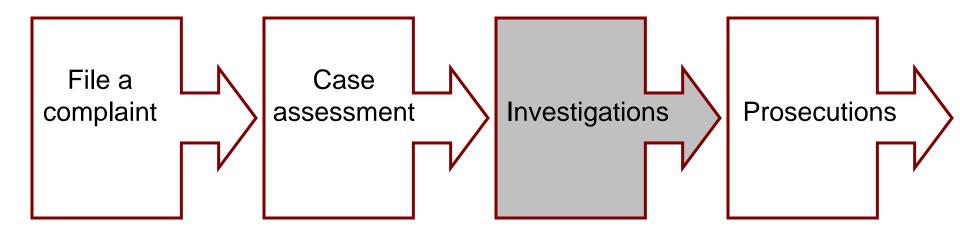
MFDA / IDA Case assessment

Keeping clients informed

- The IDA sends an acknowledgement letter within 2 days of receipt of the complaint (MFDA – 5 days)
- ► The IDA contacts the complainant every 45 days until the assessment is completed (MFDA 60 days)

Assessing the complaint

- Does the complaint involve an IDA or MFDA firm or registrant?
- Is the complaint a regulatory matter (not service related)?
- Is there preliminary evidence of regulatory infraction?
- If yes to all, the complaint is sent to investigators



Keeping clients informed

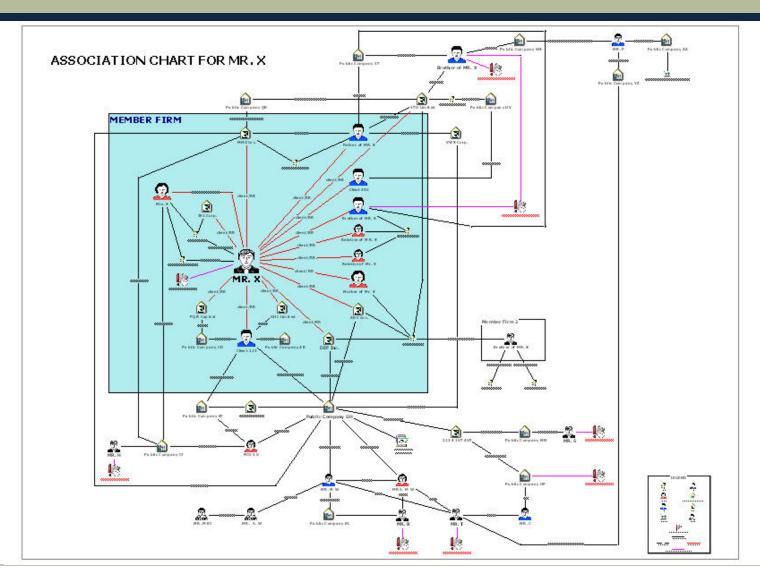
- ► The IDA sends a letter to the complainant notifying them that an investigation has begun within 5 business days (MFDA –1 day)
- The IDA contacts complainants 90 days after an investigation has been opened and every 60 days thereafter while the investigation is ongoing (MFDA 90 days)

Collecting evidence

- Investigators review the file, interview witnesses and videotape testimony, request documents etc.
- Example: we had a case with 40 bankers boxes containing 225,000 documents

Using our resources

 Forensic accountants, lawyers, investigators, forensic handwriting examiners, custom designed software etc.

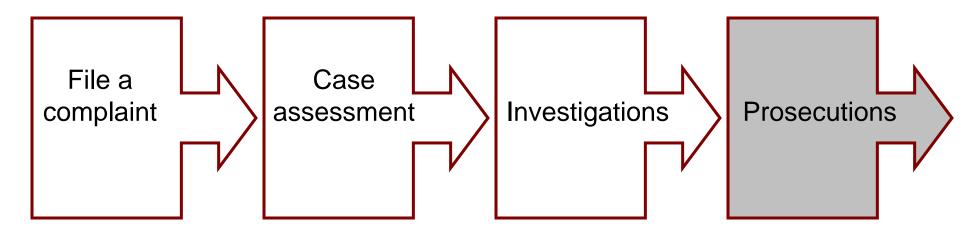


Working with other regulators

- Complex investigations can involve multiple jurisdictions and be international in scope
- We work with: police, provincial securities commissions, FBI, SEC, US Dept. of Justice

At any time, criminal activity (including fraud) is reported to the police or appropriate agency

MFDA / IDA Prosecutions



MFDA / IDA Prosecutions

If there is enough evidence to support that a violation of our bylaws has occurred, the matter goes to prosecutions

Keeping clients informed

- Whenever we anticipate a hearing a Notice to Public (NTP) is posted on the website
- When we impose a discipline penalty on a firm or one of its registered employees, a media release, Settlement Agreement and Decision are posted on the our websites
- Discipline hearings are open to the public, except when a Hearing Panel Determines otherwise

MFDA / IDA Penalties

Firms:

- a written reprimand
- fines, up to a maximum of \$5 million per contravention
- suspension or termination of rights and privileges
- terms and conditions on continued Membership
- expulsion of membership
- any other fit remedy or penalty

MFDA / IDA Penalties

Registered employees:

- a written reprimand
- fines, up to a maximum of \$1 million per contravention (MFDA - \$5 million)
- suspension of approval and upon any conditions or terms
- terms and conditions or prohibitions on continued approval
- revocation of approval or permanent bar from approval with the IDA or MFDA
- any other fit remedy or penalty (often includes re-writing of licensing courses)

IDA Timely complaint handling

Case assessment

▶ IDA - to resolve **80%** of the closed files within **75 days** of receipt of the complaints. The 80% benchmark was surpassed at a national level for the past two years, and was in fact overachieved in 2006.

Investigations

▶ IDA - to resolve **60**% of the closed files within **365 days** of receipt of the investigation. The 60% benchmark has been surpassed at a national level for the past four years.

MFDA Timely complaint handling

Case assessment

MFDA - 80% of all cases to be closed or escalated to the Investigations group within 120 days of case The benchmark has been met or surpassed in every year since it was introduced.

Investigations

MFDA - 80% of all cases to be closed or escalated to the Litigation group within one year of escalation from Case Assessment. The benchmark has been surpassed since it was introduced.

MFDA / IDA Benchmarks

Prosecutions

- ▶ IDA to resolve **60%** of the files within **six months** of receipt. The 60% benchmark has been met in the past three years, and surpassed in the past two years.
- MFDA 80% of files to be closed or the subject of a Notice of Hearing or Settlement Hearing within ten months of escalation from Investigations. The MFDA has surpassed this standard since it was introduced.

OSC Who We Are

- The regulatory body responsible for overseeing the capital markets in Ontario
- Administers and enforces the provincial Securities Act, the provincial Commodity Futures Act and certain provisions of the provincial Business Corporations Act
- A self-funded Crown Corporation accountable to the Ontario legislature

OSC Who We Regulate

- The OSC regulates various types of capital market participants including:
 - persons or companies advising or trading in securities or commodities futures (unless under an exemption)
 - public companies
 - investment funds
 - self-regulatory organizations
 - clearing agencies and marketplaces (including exchanges, alternative trading systems and quotation and trade reporting systems)

OSC Inquiries & Contact Centre

- Provides information and educational resources
- Assists you in understanding the complaint process
- Acknowledges complaints and responds within 15 20 days of receipt
- Publishes Investor Alerts to help investors learn about the latest frauds and scams
- Maintains an online Tips form that allows investors to send tips anonymously

OSC Enforcement

- Deals with matters involving the public interest
- Investigates matters which involve broad market issues and impact market integrity (e.g. insider trading, disclosure by public companies, accounting and auditing issues, takeover bid issues, illegal distributions)
- Investigates complaints against dealers and advisers that are not members of the IDA or MFDA
- Works cooperatively with other securities regulators,
 SROs and external agencies in Canada and abroad

OSC Case Selection

Approach

- Select cases posing greatest threat to market integrity
- Most effective use of resources

Considerations

- Nature of conduct or activity
- Market participants involved
- Impact on investors and the market
- Urgency ongoing activity
- Jurisdiction
- Limitation

OSC Enforcement Process

Case Assessment and Surveillance:

- Conduct initial analysis and assessment
- Refer matters involving serious breaches to Investigation

Investigation:

- Conducts investigations
- Refers appropriate matters to Litigation

Litigation:

 Negotiates settlements and conducts proceedings before the Commission and the Courts

OSC Communication

During an investigation:

- Enforcement may contact complainants through questionnaires, telephone or interviews
- Limits on communication e.g. privacy law, confidentiality restrictions imposed by the OSA, potential prejudice to the investigation and to parties under investigation, reveal market sensitive information

Exceptions

- investor protection outweighs non-disclosure concerns
- conduct or issues substantially in the public realm
- to correct the public record

After an investigation:

Public disclosure is made when proceedings are initiated

OSC Timelines

- Challenges
- complex and document intensive
- specialized knowledge and forensic tools
- multiple/offshore jurisdictions
- legal obstacles

2006/07

- Intake Units
 - average of 2 months to complete files
- Investigation
 - average of 9.5 months to complete files

OSC Litigation Options

- Settlement
- Commission hearings
- Court proceedings
- Other actions:
 - Interim Relief (e.g. Cease Trade Orders)
 - Court Applications (e.g. Freeze Directions)
 - Receivership Applications

Investor Forum

Appendix

OBSI / IDA / MFDA / OSC

- -Contact Information
- -Customer Complaint Forms Samples

OBSI Contact information

- Phone: 1-888-451-4519
- Fax: 1-888-422-2865
- Email: ombudsman@obsi.ca
- Online complaint form: www.obsi.ca
- Mail: OBSI, P.O. Box 896, Station Adelaide, Toronto, ON M5C 2K3

MFDA / IDA Contact Information / Complaint

If you have a complaint you can:

- call the toll-free Information/Complaint Line
 - 1-877-442-4322 (IDA)
 - 1-888-466-6332 (MFDA)
- email the IDA at enforcement@ida.ca or the MFDA at complaints@mfda.ca
- Email or fax a Customer Complaint Form
- Complete a Online Customer Complaint Form

OSC Contact Information

▶ Phone: 1-877-785-1555

416-593-8314

► Fax: 416-593-8122

► E-mail: <u>inquiries@osc.gov.on.ca</u>

Online: <u>www.osc.gov.on.ca</u>

Mail: 20 Queen St., West, Box 55, 19th Floor

Toronto, ON M5H 3S8

Attention: Inquiries & Contact Centre

OBSI Customer Complaint Form





	Page 3 of 3
4. *Have you completed the com	plaints resolution process at your firm? Yes No
If NO, please explain:	14
*Have you started legal procee	dings? Yes □ No □
If YES, please explain:	DOL <u>eg</u> nes - Delegas empresados e o
Additional information (not requ	uired)
6. How did you hear about OBSI	
	☐ Your Firm ☐ Friend/colleague
	☐ Search Engine (i.e. Google)
W 4 1	□ Other
If other, please prov Section C: Send us the complain	State Transport of the
	the address or fax number below. If you have
	n process at your firm, please include its final letter to
Mail: Ombudsman for Banking S PO Box 896, Station Adela Toronto, ON M5C 2K3	
Fax: 1-888-422-2865	

IDA Customer Complaint Form



Investment Dealers Association of Canada Customer Complaint Form

Please use this form to file a complaint with the Case Assessment Department of the Investment Dealers Association of Canada (IDA). We require a written complaint from the owner of the account(s) in question, indicating the subject of the complaint, the issues involved and specific information regarding times, dates and events. While an individual may file a complaint on behalf of someone else, we require written authorization from the owner of the account in order to proceed with our review of the complaint. Receipt of your complaint will be acknowledged and if further information is required a Complaint Inquiries Officer will contact you.

Our role in protecting investors is to investigate complaints of regulatory violations and to impose penalties on those who are found guilty of such violations. All matters brought to the attention of the IDA are not necessarily regulatory violations that result in disciplinary action. The IDA does not provide financial, investment or legal advice.

Mr/Mrs/Ms/Miss/Dr	Ple	sase Print Name in Full
Address:		
City:	Province:	Postal Code:
Home Telephone: ()		Business Telephone: ()
Fax Number: ()		E-Mail Address:

2. Account Inform			
Name of Firm:			
Firm's Complaint Reference N	umber:		
Name of Registered Represent	ative:		
Name of Branch Manager:			
Branch Address:			
City:	Province:	Postal Code:	
	Account Type:		
Account Number:			
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7. Arbitration Process / Legal Action				
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Are you currently participating in the Osshadanan process?		Yes		No
Are not custodly pursuing logal action through the circl count content?		Yes		No
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11. Your complaint may be filed by mail or b	ry fes
If you live in thick Cultanton, Alberta, Suskalchrean, Mandalin, Northwest Tentucies, Steamest or Yakon:	Cont. Assuments Department, Western Crouds Investment Dealers, Association of Canada Saint 2018, 315.6° Association of Canada Calgare, Africa T27 (41) Fig. (410), 234-2861
If you live in Ontario, New Pronomick, New Bootin, P.S. I. or New Foundland	Case Assessment Department, Ordavia & Allantia Regions Inventorent Dealers Association of Canada Saint 1001, 121 King Breek Wase Tamonis, Names MRI 819 Fan. (401), 344-2508
of you, line in Quellers	Case Assessment Department, Quelhoi Engion Inventment Dealers Association of Catesha Harms 2003, 1 Plans Ville Mane Manned, Qualine IIII0 664 Fac. (SUG-ETS-366)

MFDA Customer Complaint Form



Knowing the history of your complaint can help us deal with your complaint more eff	fectively.	
Have you contacted your approved person in writing regarding this complaint?	Yes	□No
Have you contacted the dealer's head office in writing regarding this complaint?	Yes	No
Have you contacted your provincial Securities Commission?	Yes	□No
5. Your Signature		
Signature: Date:		
If you are filing this complaint on behalf of another person, please have the person(s)		
Signature: Date:		
Signature: Date:		
	umber below:	
Mutual Fund Dealers Association of Canada Enforcement Department, Case Assessment 121 King Street West, Suite 1000 Toronto, Ontario, M5H 3T9	mber below:	
Mutual Fund Dealers Association of Canada Enforcement Department, Case Assessment 121 King Street West, Suite 1000 Toronto, Ontario, M5H 3T9	umber below:	
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