



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

**IN THE MATTER OF A SETTLEMENT HEARING  
PURSUANT TO SECTION 24.4 OF BY-LAW NO. 1 OF  
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA**

**Re: Info Financial Consulting Group Inc.**

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**SETTLEMENT AGREEMENT**

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**I. INTRODUCTION**

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada (the “MFDA”) will announce that it proposes to hold a hearing to consider whether, pursuant to section 24.4 of By-law No. 1, a hearing panel of the Central Regional Council (the “Hearing Panel”) of the MFDA should accept the settlement agreement (the “Settlement Agreement”) entered into between Staff of the MFDA (“Staff”) and the Respondent, Info Financial Consulting Group Inc. (the “Respondent”).

**II. JOINT SETTLEMENT RECOMMENDATION**

2. Staff conducted an investigation of the Respondent’s activities. The investigation disclosed that the Respondent had engaged in activity for which the Respondent could be penalized on the exercise of the discretion of the Hearing Panel pursuant to s. 24.1 of By-law No. 1.

3. Staff and the Respondent recommend settlement of the matters disclosed by the investigation in accordance with the terms and conditions set out below. The Respondent agrees to the settlement on the basis of the facts set out in Part IV herein and consents to the making of an Order in the form attached as Schedule “A”.

4. Staff and the Respondent agree that the terms of this Settlement Agreement, including the attached Schedule “A”, will be released to the public only if and when the Settlement Agreement is accepted by the Hearing Panel.

### **III. ACKNOWLEDGEMENT**

5. Staff and the Respondent agree with the facts set out in Part IV herein for the purposes of this Settlement Agreement only and further agree that this agreement of facts is without prejudice to the Respondent or Staff in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the MFDA (subject to Part IX) or any civil or other proceedings which may be brought by any other person or agency, whether or not this Settlement Agreement is approved by the MFDA.

### **IV. AGREED FACTS**

#### **Registration History**

6. The Respondent is registered as a mutual fund dealer in Ontario and British Columbia, and as an exempt market dealer in Ontario.

7. The Respondent has been a Member of the MFDA since July 5, 2002.

#### **Corporate Structure**

8. The Respondent’s head office is located in Richmond Hill, Ontario (the “Head Office”). The Respondent currently has sub-branch offices in Toronto and Scarborough, Ontario. At the relevant time, the Member also had several branch offices in Ontario including Richmond Hill, Markham and Mississauga (collectively, the “Branches”).

## **Failure to Conduct Adequate Supervision of Leveraging**

9. Commencing on March 23, 2009, MFDA Compliance Staff conducted a third round compliance examination of the Respondent's Head Office and the Branches (the "2009 Examination") in order to assess the Respondent's compliance with MFDA by-laws, Rules and Policies during the period May 1, 2007 to January 31, 2009.

10. The results of the 2009 Examination were summarized and delivered to the Respondent in a report dated July 30, 2009 (the "2009 Report").

11. The 2009 Report identified a number of compliance deficiencies including the failure of the Respondent to establish, implement and maintain adequate policies and procedures to supervise and to ensure the suitability of leveraging recommendations made by Approved Persons to clients.

### *Inadequate Written Policies and Procedures for the Supervision of Leveraging*

12. During the 2009 Examination, MFDA Compliance Staff determined that the Respondent's written policies and procedures (the "Procedures") for the supervision of leveraging recommendations were deficient in the following ways:

- (a) the Procedures to assess the suitability of leveraging recommendations did not consider all relevant know your client ("KYC") information. The procedures did not consider the client's age or investment knowledge or did not adequately consider net worth when assessing the suitability of leveraging recommendations; and
- (b) the Procedures did not include processes to document evidence of supervisory review of leveraging recommendations including records of suitability queries made, responses received and resolutions achieved.

### *Inadequate Supervision of Leveraging at the Branches*

13. During the 2009 Examination, MFDA Compliance Staff determined that the

Respondent's Branch Office supervision of the suitability of leveraging recommendations was deficient in that Branch Managers or other supervisory staff in the Branches:

- (a) failed to detect and query leveraging recommendation that may have been unsuitable in light of the client's documented KYC information as recorded on the clients New Account Application Form and loan application; and
- (b) failed, as a result of its conduct in s.13(a) above, to maintain records of suitability queries made, responses received from Approved Persons and resolutions achieved as a result of the supervisory inquiry.

#### *Inadequate Head Office Supervision of Leveraging*

14. During the 2009 Examination, MFDA Compliance Staff determined that the Respondent's Head Office supervision of the suitability of leveraging recommendations was deficient in that the Respondent's Head Office Compliance Staff:

- (a) failed to detect and query leveraged recommendations that may have been unsuitable in light of the client's documented KYC information as recorded on the clients' New Account Application Form and loan application.
- (b) failed, as a result of its conduct in s.14(a) above to maintain records of suitability queries made, responses received from Approved Persons and resolutions achieved as a result of the supervisory inquiry.

15. As a result of the deficiencies by the Respondent as outlined in paragraphs 13 and 14 above, leveraging recommendations which may have been unsuitable were processed at the Respondent without proper supervision, and those leveraging recommendations have not to date been subject to full supervisory scrutiny in compliance with the Respondent's policies and procedures.

#### **Correcting Deficiencies in Policies and Procedures**

16. The Respondent has revised its policies and procedures with regard to supervision of leveraging, and has provided a copy of those policies and procedures to MFDA Staff. The

Respondent asserts that it has implemented those revised policies and procedures. The Respondent (hereby) undertakes to comply with those policies and procedures in the future.

### **Addressing Historical Leveraging**

17. The Respondent has developed a plan, which has been reviewed by MFDA Staff, to address existing leveraged accounts (the “Leveraged Review Action Plan”). The Respondent represents that it will fully carry out the terms of the Leveraged Review Action Plan to the satisfaction of MFDA Staff. The Respondent may be subject to further disciplinary action should it fail to adequately implement the Leveraged Review Action Plan.

### **V. CONTRAVENTIONS**

18. The Respondent admits that between May 1, 2007 and January 31, 2009, it failed to establish, implement and maintain adequate policies and procedures to supervise leveraging recommendations and ensure the suitability of leveraging recommendations made by Approved Persons to clients, contrary to MFDA Rules 2.2.1, 2.5, 2.6 and 2.10 and MFDA Policy No. 2.

19. The Respondent admits that between May 1, 2007 and January 31, 2009, it failed to maintain adequate records of the supervision of leveraging recommendations that was conducted by its Approved Persons, including records of inquiries made, responses received and resolutions achieved, contrary to MFDA Rules 2.2.1 and 2.5 and MFDA Policy No. 2.

### **VI. TERMS OF SETTLEMENT**

20. The Respondent agrees to the following terms of settlement:

- (a) the Respondent shall pay a fine in the amount of \$25,000 upon the acceptance of this Settlement Agreement, pursuant to s.24.1.2(b) of MFDA By-Law No. 1;
- (b) the Respondent shall pay the costs of this proceeding in the amount of \$2,500 upon the acceptance of this settlement, pursuant to s.24.2 of MFDA By-Law No. 1;
- (c) in accordance with s. 24.4.2 of the By-law, the Respondent agrees that in the future, the Respondent shall comply with all MFDA By-laws, Rules and Policies, and all applicable securities legislation and regulations made thereunder, including, MFDA

Rules 2.2.1, 2.5, 2.6 and 2.10 and MFDA Policy No. 2; and

(d) a senior officer of the Respondent will attend the settlement hearing in person.

## **VII. STAFF COMMITMENT**

21. If this Settlement Agreement is accepted by the Hearing Panel, Staff will not initiate any proceeding under the By-laws of the MFDA against the Respondent or any of its officers or directors in respect of the contraventions described in Part V of this Settlement Agreement, subject to the provisions of Part IX below. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any contraventions that are not set out in Part V of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the contraventions set out in Part V, whether known or unknown at the time of settlement. Furthermore, nothing in this settlement precludes Staff from investigating or initiating proceedings in respect of any contraventions relating to any other aspect of its supervision of the conduct of its Approved Persons or former Approved Persons.

22. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations.

## **VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT**

23. Acceptance of this Settlement Agreement shall be sought at a hearing of the Central Regional Council of the MFDA on a date agreed to by counsel for Staff and the Respondent.

24. Staff and the Respondent may refer to any part, or all, of the Settlement Agreement at the settlement hearing. Staff and the Respondent also agree that if this Settlement Agreement is accepted by the Hearing Panel, it will constitute the entirety of the evidence to be submitted respecting the Respondent in this matter, and the Respondent agrees to waive its rights to a full hearing, a review hearing before the Board of Directors of the MFDA or any securities commission with jurisdiction in the matter under its enabling legislation, or a judicial review or appeal of the matter before any court of competent jurisdiction.

25. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, then the Respondent shall be deemed to have been penalized by the Hearing

Panel pursuant to s. 24.1.2 of By-law No. 1 for the purpose of giving notice to the public thereof in accordance with s. 24.5 of By-law No. 1.

26. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, neither Staff nor the Respondent will make any public statement inconsistent with this Settlement Agreement. Nothing in this section is intended to restrict the Respondent from making full answer and defence to any civil or other proceedings against it.

#### **IX. FAILURE TO HONOUR SETTLEMENT AGREEMENT**

27. If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff reserves the right to bring proceedings under the By-laws of the MFDA against the Respondent and any of its officers or directors based on, but not limited to, the facts set out in Part IV of the Settlement Agreement, as well as the breach of the Settlement Agreement. If such additional enforcement action is taken, the Respondent agrees that the proceeding(s) may be heard and determined by a hearing panel comprised of all or some of the same members of the hearing panel that accepted the Settlement Agreement, if available.

#### **X. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT**

28. If, for any reason whatsoever, this Settlement Agreement is not accepted by the Hearing Panel or an Order in the form attached as Schedule "A" is not made by the Hearing Panel, each of Staff and the Respondent will be entitled to any available proceedings, remedies and challenges, including proceeding to a disciplinary hearing pursuant to sections 20 and 24 of By-law No. 1, unaffected by this Settlement Agreement or the settlement negotiations.

29. Whether or not this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees that it will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any allegation against the MFDA of lack of jurisdiction, bias, appearance of bias, unfairness, or any other remedy or challenge that may otherwise be available.

**XI. DISCLOSURE OF AGREEMENT**

30. The terms of this Settlement Agreement will be treated as confidential by the parties hereto until accepted by the Hearing Panel, and forever if, for any reason whatsoever, this Settlement Agreement is not accepted by the Hearing Panel, except with the written consent of both the Respondent and Staff or as may be required by law.

31. Any obligations of confidentiality shall terminate upon acceptance of this Settlement Agreement by the Hearing Panel.

**XII. EXECUTION OF SETTLEMENT AGREEMENT**

32. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.

33. A facsimile copy of any signature shall be effective as an original signature.

Dated: September 29<sup>th</sup>, 2011.

“Paul Lee”  
\_\_\_\_\_  
Witness – Signature

“Gary Yung”  
\_\_\_\_\_  
Info Financial Consulting Group Inc.  
Per: Gary Yung, President

Paul Lee  
\_\_\_\_\_  
Witness - Print name

“Shaun Devlin”  
\_\_\_\_\_  
Staff of the MFDA  
Per: Shaun Devlin  
Vice-President, Enforcement



**Schedule “A”**

**Order**

**File No. 201028**



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

**IN THE MATTER OF A SETTLEMENT HEARING  
PURSUANT TO SECTION 24.4 OF BY-LAW NO. 1 OF  
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA**

**Re: Info Financial Consulting Group Inc.**

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**ORDER**

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**WHEREAS** on [date], the Mutual Fund Dealers Association of Canada (the “MFDA”) issued a Notice of Settlement Hearing pursuant to section 24.4 of By-law No. 1 in respect of Info Financial Consulting Group Inc. (the “Respondent”);

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the MFDA, dated [date] (the “Settlement Agreement”), in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to ss. 20 and 24.1 of By-law No. 1;

**AND WHEREAS** the Hearing Panel is of the opinion that the Respondent has failed to comply with or carry out the provisions of MFDA Rules 2.2.1, 2.5, 2.6, 2.9 and 2.10 and MFDA Policy No. 2;

**IT IS HEREBY ORDERED THAT** the Settlement Agreement is accepted, as a consequence of which:

1. The Respondent shall pay a fine in the amount of \$25,000 upon the acceptance of this Settlement Agreement, pursuant to s.24.1.2(b) of MFDA By-Law No. 1; and;
2. The Respondent shall pay the costs of this proceeding in the amount of \$2,500 upon the acceptance of this Settlement Agreement, pursuant to s.24.2 of MFDA By-Law No. 1; and
3. If at any time a non-party to this proceeding requests production of, or access to, any materials filed in, or the record of, this proceeding, including all exhibits and transcripts, then the MFDA Corporate Secretary shall not provide copies of, or access to, the requested documents to the non-party without first redacting from them any and all intimate financial or personal information, pursuant to Rules 1.8(2) and (5) of the MFDA *Rules of Procedure*.

**DATED** this [day] day of [month], 20[ ].

Per: \_\_\_\_\_  
[Name of Public Representative], Chair

Per: \_\_\_\_\_  
[Name of Industry Representative]

Per: \_\_\_\_\_  
[Name of Industry Representative]