



MFDA Investor Protection Corporation

Corporation de protection des investisseurs de l'ACFM

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Claims Procedures

Introduction

These Claims Procedures should be read in conjunction with the Coverage Policy of the MFDA Investor Protection Corporation (“IPC”). The Coverage Policy notes that IPC may exercise its discretion in respect of determining customers eligible for protection and the amount of financial loss suffered consistent with applicable legislation. IPC’s interpretation of the Coverage Policy shall be final and conclusive.

By way of background, the Approval Orders of the various securities commissions approving the IPC as a compensation fund for customers of mutual fund dealers that are members of the Mutual Fund Dealers Association of Canada (“MFDA”) requires the IPC to maintain Coverage Policies including a process for the review of claims and a fair and reasonable internal appeals or review process for customer claims that are not initially accepted for payment.

IPC Establishes Date of Insolvency

The date at which the financial loss of a customer is determined by IPC is the date on which the MFDA Member became insolvent. For purposes of IPC coverage, an MFDA Member is generally insolvent on or about the date a trustee in bankruptcy¹ is appointed, or if a trustee is not appointed, the date customers cease to have unrestricted access to their accounts, for example, because the MFDA Member has been suspended by the MFDA. Payments made to customers may be made by IPC or by the trustee, if one is appointed, depending on the individual circumstances of the insolvency.

Claims Administration

Where Trustee Appointed

Where IPC has information that there are eligible customers of an insolvent MFDA Member that may require IPC coverage, IPC may ask the court to appoint a trustee, and if so, will participate in the trustee’s claims process to ensure that all customers are advised how to submit claims to the estate of the insolvent MFDA Member.

¹ For the purposes of these Claims Procedures, a trustee in bankruptcy, receiver, liquidator or similar insolvency official is generally referred to as a trustee, unless the context provides otherwise.

Claims to the trustee are considered to be claims to IPC to the extent consistent with IPC's Coverage Policy.

IPC will work with the trustee to ensure that proved claims of eligible customers that have demonstrated they will suffer undue hardship if their claim is not dealt with immediately, are dealt with on a priority basis.

When the trustee determines the estate does not have sufficient resources to satisfy customer claims, IPC may settle the losses of eligible customers by providing the trustee with additional resources, up to the limit of IPC coverage and subject to availability of sufficient IPC resources. The time of payment may be affected by a number of factors including the amount of assets immediately available to IPC to make payment.

Where any amount of a customer's claim has been disallowed by the trustee, an eligible customer can make a request within 60 days of the date of the disallowance to the IPC Appeal Committee to review the disallowance. Customers should also be aware of the availability of any court review under applicable legislation and should seek their own legal advice should they wish to pursue court review.

Where Trustee Not Appointed

Where a trustee has not been appointed, claims can be made directly to IPC.

Identification of Claims

IPC will take appropriate steps to ensure all customers that have a cash balance and/or security position on or around the date of insolvency are advised on how to submit a claim to IPC. This may be by a notice on the final customer account statement, a letter from IPC, notices in the media or any other means deemed appropriate by IPC given the circumstances of the insolvency. IPC may also rely on the MFDA to notify customers on IPC's behalf.

Customers that believe they are eligible for IPC coverage must submit a proof of claim to IPC along with all documents and information to support the claim generally within 180 days of the date of insolvency. Documents and information to support a customer's claim should include, but not be limited to, account statements, correspondence and other documentation provided by the MFDA Member to the customer.

Claim Information

The information required to make a claim, including a proof of claim form, will be available from the IPC website, or upon request. Customers should read the Coverage Policy to determine if their claim is eligible for payment by IPC before submitting a claim.

IPC will endeavor to post other relevant information to its website on the MFDA Member's insolvency and the claims process, as it becomes available. IPC may also rely on the MFDA to post information on its website.

Claim Handling Priority

IPC will give priority to the proved claims of customers that have demonstrated that they will suffer undue hardship if their claim is not dealt with immediately.

All other claims will be dealt with in the order in which information needed to assess the claim is made available to IPC.

Claims Handling

IPC will acknowledge all claims in writing, as received. The burden is on a customer of an insolvent MFDA Member to establish eligibility and the amount of a claim, but IPC will use reasonable efforts to collect the available information required to assess the eligibility of the claim for IPC coverage.

IPC may require the customer to provide additional information that was not requested in the proof of claim form, or was requested but not supplied. The customer will usually be given 30 days to comply with any such requests. If the customer does not comply within the required time, IPC may assess the claim based on the information in its possession.

Prior to deciding on a claim IPC may require the customer to confirm the accuracy and completeness of the information it will use to assess the eligibility of the claim. In this situation, IPC will prepare a summary of the claim and provide it to the customer for confirmation that the information is accurate and complete and, if not, to amend it accordingly.

Claims Decisions

IPC will advise the customer in writing of its decision on the claim eligibility for payment including the reasons.

(a) Eligible for Payment

Where a claim is determined to be eligible for payment, IPC requires a signed agreement by which the claimant assigns and subrogates the claim to IPC. This agreement will be part of the documentation sent to customers by IPC.

Timing of payment may be affected by a number of factors including the amount of assets immediately available to IPC to make the payment and other operational considerations.² However, IPC will endeavor to pay claims that are determined to be eligible for coverage within 30 days after a properly completed assignment is received from the customer.

²Property commonly referred to as “client name” is not eligible for coverage unless it is in the custody or control of the MFDA Member. In those circumstances, payment to customers may take longer than in circumstances where Property is held by an MFDA Member due to administrative processing time for individual customer payments.

(b) Not Eligible for Payment

Where a claim is determined to be not eligible for payment, IPC will advise the customer that IPC's decision may be appealed to an Appeal Committee, which will be established by the IPC Board of Directors to review the customer's claim. The Appeal Committee will be comprised of one or more IPC Directors.

Appeal requests must be made in writing within 45 days of the date the decision letter is sent.

Discretion of IPC

Notwithstanding the provisions of these Claims Procedures and their application, whether or not a trustee has been appointed, IPC reserves the right in its sole discretion to administer claims in any other manner consistent with its Coverage Policy from time to time.

Appeal Procedures

Appeal Handling

IPC will acknowledge all appeals in writing as received. Appeals will be conducted by written submissions unless the Appeal Committee determines, in its sole discretion, that all or any part of an appeal will be held as an in-person hearing or electronic hearing. IPC will endeavour to consider all appeals within six months of the request or as soon as reasonably possible thereafter given the number of appeal requests received at any particular time. In the event of an in-person or electronic hearing, the customer will be notified, in writing, of the date, time and place the appeal is to be heard.

The Appeal Committee may impose specific time limits for a hearing and submissions, if any, as appropriate in the circumstances.

The Appeal Committee may request the customer and IPC staff to appear before the Appeal Committee either in person or by electronic means. The customer and IPC staff may have legal counsel present, but legal counsel is not required.

Written submissions on appeal will include all information used by IPC to make its eligibility determination, other information the customer requests be considered by the Appeal Committee and a summary of any other evidence to be provided by IPC staff. IPC staff will provide the customer with the information it has in its possession regarding the claim.

Customers and their legal counsel may take notes at any in person or electronic appearance before the Appeal Committee. All costs incurred by the customer relating to the appeal will be on the account of the customer, not IPC.

Appeal Deliberations

The Appeal Committee will conduct its deliberations and make its determination in the absence of IPC staff, the customer and the customer's legal counsel or other advisors.

Generally, IPC Appeal Committees will be comprised of more than two members, in which case the decision of the Appeal Committee will be decided by a simple majority. In the case of an evenly split decision among members, the decision of the Chair of the Appeal Committee, as appointed by the Board of Directors, shall prevail.

Once the decision has been made, the customer and IPC staff will be advised in writing of the Appeal Committee's decision and provided with its written reasons.

If the claim is eligible for coverage, prior to payment the customer must provide IPC with a signed agreement by which the claimant assigns and subrogates the claim to IPC.

Payment Timing

Timing of payment following the Appeal Committee's decision, may be affected by a number of factors including the amount of assets immediately available to IPC to make the payment, and other operational considerations as described above. However, IPC will endeavor to pay claims that are determined to be eligible for coverage after an appeal within 30 days after a properly completed assignment is received from the customer.

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