



## **MFDA Investor Protection Corporation**

Corporation de protection des investisseurs de l'ACFM

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### **COVERAGE POLICY**

MFDA Investor Protection Corporation (IPC) provides coverage to Customers of Members ("Members") of the Mutual Fund Dealers Association of Canada (MFDA) for Losses of Property in Customer accounts caused by the insolvency of a Member. IPC's objective is to return assets to Customers or provide compensation for their value as at the date of the insolvency when the assets are not available from the insolvent Member. This Policy describes who is eligible as a Customer, the kind of Losses of Property covered, the limits of coverage and how Claims are determined and made.

The coverage by IPC of Losses suffered by Customers of insolvent Members is in the discretion of IPC. This Policy has been adopted to describe the way in which such discretion is intended to be exercised. IPC reserves the right in the appropriate circumstances to authorize any payments in a manner other than as described in this Policy.

### **CUSTOMERS**

#### **Eligible Customers**

A Customer eligible for coverage by IPC is an individual, corporation, partnership, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal representative who has an account with an insolvent MFDA Member used for transacting securities business directly with the Member. Such an account is to be fully disclosed in the records of the Member and is normally evidenced by receipts, contracts and statements that have been issued by the Member. Accounts with entities other than a Member including a Member's affiliates or related organizations are not accounts for this purpose. MFDA maintains on its website at [www.mfda.ca](http://www.mfda.ca) a list of Members whose Customers are entitled to protection subject to the terms of this Policy.

#### **Persons Excluded as Customers**

A Customer does not include:

- i) a domestic or foreign securities or mutual fund dealer registered with a Canadian securities commission or foreign equivalent;
- ii) any individual or corporation to the extent that such person has a claim for cash or securities which by contract, agreement, or understanding, or by operation of law, is part of the capital of the insolvent Member such that the claim represents five percent or more of any class of equity security of the insolvent Member, or any individual who has a claim which is subordinated to the claims of any or all creditors of the insolvent Member;

- iii) a general partner or director of the insolvent Member;
- iv) a limited partner with a participation of five percent or more in the net assets or net profits of the insolvent Member;
- v) a person with the power to exercise a controlling influence over the management or policies of the insolvent Member;
- vi) a clearing corporation;
- vii) a Customer of an institution, securities dealer or other party dealing with a Member on an omnibus basis (being an account in which the transactions of two or more persons are combined without disclosure to the Member of the identify of such persons);
- viii) a person who caused or materially contributed to the insolvency of a Member;
- ix) persons who dealt with a Member through accounts used for business financing purposes; and
- x) persons who do not deal at arm's length (as determined by IPC) with either an insolvent Member or a person who is excluded as a Customer.

## **Quebec**

MFDA is not recognized as a self-regulatory organization in the Province of Quebec and assessments for IPC funding are not made in respect of assets under administration of Members in Quebec. Accordingly, Customers with accounts in Quebec at MFDA Members, and whose assets held by MFDA Members in Quebec are not subject to such assessment, will not be entitled to protection by IPC. Generally, an account is considered to be in Quebec for these purposes if the office serving the Customer is located in Quebec.

## **LOSSES**

Losses eligible for coverage by IPC must be financial Losses caused by the insolvency of a Member. These Losses must arise from the failure of the Member to return or account for Property of the Customer held by or in the control of the insolvent Member including the conversion of such Property.

Losses which do not result from the insolvency of a Member such as Losses from changing market values of securities, unsuitable investments or the default of an issuer of securities are not covered.

## **PROPERTY COVERED**

### **Types of Property**

The Property in a Customer's account for which IPC coverage is available is restricted to securities, cash, segregated funds or other property in which a Member is entitled to deal pursuant to its registration as a dealer under applicable legislation.

### **Held by Member**

Property of a type for which IPC coverage is available is property that is held, or should have been held, by an insolvent Member for the account of a Customer at the date of insolvency and which the insolvent Member is obliged to return to the Customer. This kind of Property is commonly referred to as being in the nominee name of the Member (as opposed to client name as described below).

### **Client Name**

Property that is not held by the Member, or not recorded in a Customer's account as being held by a Member, such as mutual fund securities that are registered directly in the name of the Customer with the mutual fund company or deposits with financial institutions, is not eligible for IPC coverage even though it was sold through the Member to the Customer. This kind of Property is commonly referred to as being in client name (as opposed to the nominee name of the Member) and is not eligible for coverage unless it is otherwise in the custody or control of the Member. Such custody or control may arise where a Member or its representatives have ostensible control over assets of a customer holding client name Property by virtue of a power of attorney, trading authorization or temporary receipt of cash intended to be received by a mutual fund company or other issuer.

## **LIMITS OF COVERAGE**

### **Maximum For Each account**

The maximum amount of coverage for eligible Property in each of the General and Separate accounts of a Customer is \$1,000,000, subject to the aggregation of such accounts as described below. The amount of a Customer's claim for Property will be reduced to the extent that the Customer is entitled to deposit insurance or other compensation from any source in respect of such Property.

### **General accounts**

Each account of a Customer eligible for protection which is not a Separate account shall be one of the General accounts of such Customer. All General accounts of a Customer, or any interest the Customer may have in a General account, shall be combined or aggregated so as to constitute a single account of such Customer for the purposes of determining the payments to be made to the Customer. The interest of a Customer in an account which is held on a joint or shared ownership basis shall be treated as if it were a General account and combined with the General accounts of the Customer. An account held by a nominee or agent for another person as a principal or beneficial owner shall, except as otherwise provided in this Policy, be deemed to be the account of the principal or beneficial owner. For the purposes of determining the maximum coverage available, the General and Separate accounts that a Customer has with a Member will not be combined with the General and Separate accounts that the same Customer may have with another Member, including another Member who has an introducing / carrying agreement with the first Member.

## **Separate Accounts**

Each account of a Customer held by it in the capacity or circumstance set out below shall be considered a Separate account of the Customer. Unless otherwise indicated below, each Separate account held by a Customer in the same capacity or circumstance shall be combined or aggregated so as to constitute a single Separate account. The burden shall be on the Customer to establish each capacity or circumstance in which the Customer claims to hold Separate accounts. An account of a Customer shall not be a Separate account if it existed on the date of insolvency primarily for the purpose of increasing protection by IPC.

**Registered Retirement Plans:** *accounts of registered retirement or deferred income plans such as registered retirement savings plans (RRSPs), registered retirement income funds (RRIFs), life income funds (LIFs), locked-in retirement accounts or plans (LIRAs or LIRSPs) and locked-in retirement income funds (LRIFs) established for the account of a customer (excluding spousal plans) which comply with the requirements under the Income Tax Act (Canada) for such plans and which have been accepted by the Minister under such Act, where the customer is entitled to the benefits of the plan. Accounts established with respect to a customer through the same or different trustees shall be combined and aggregated.*

**Registered Education Savings Plans:** *accounts of education savings plans which comply with the requirements under the Income Tax Act (Canada) for registered education savings plans and which have been accepted by the Minister under such Act, where the customer is the subscriber of the plan. Accounts established with respect to a customer through the same trustee shall be combined and aggregated by trustee, but not if established through different trustees.*

**Testamentary Trusts:** *accounts held in the name of a decedent, his or her estate or the executor or administrator of the estate of the decedent. Accounts of testamentary trusts held by the same executor or administrator shall not be combined or aggregated unless held in respect of the same decedent.*

**Inter-vivos Trusts and Trusts Imposed by Law:** *accounts of inter-vivos trusts which are created by a written instrument and trusts imposed by law. Such Separate accounts of customers shall be distinct from the trustee, the settlor or any beneficiary.*

**Guardians, Custodians, Conservators, Committees, etc.:** *accounts maintained by a person as a guardian, custodian, conservator, committee or similar capacity in respect of which accounts such person has no beneficial interest. Such accounts held by the same person in any such capacity shall not be combined or aggregated unless held in respect of the same beneficial owner.*

**Holding Corporation:** *accounts of corporations controlled by a customer provided that the beneficial ownership of a majority of the equity capital of the corporation is held by persons other than the customer.*

**Partnerships:** *accounts of partnerships controlled by a customer provided that the beneficial ownership of a majority of the equity interests in the partnership is held by persons other than the customer.*

**Unincorporated Associations or Organizations:** *accounts of unincorporated associations or organizations controlled by a customer provided that the beneficial ownership in a majority of the assets of the association or organization is held by persons other than the customer.*

### **Timing of Payments**

The time of payment of the maximum amount of coverage in respect of an account as described above may be affected by the amount of assets immediately available to IPC in the event of the insolvency of a Member. While IPC has the legal ability to assess Members for contributions to an unlimited amount or draw on lines of credit, IPC may not have on hand at any time sufficient assets to make immediate payment of the maximum amount of coverage available to Customers on the insolvency of a Member.

## **CLAIMS**

### **Claims and Determination of Customer Losses**

The Claim of a Loss of a Customer in respect of which IPC may authorize payment by IPC shall be determined as at the applicable date of insolvency (as fixed by IPC in its discretion) after taking into account the delivery of any securities or property to which the Customer is entitled and the distribution of any assets of the insolvent Member. Accordingly, the maximum amount of securities, cash and other property which MFDA IPC may pay to a Customer shall be calculated as the balance of the Customer's financial Loss as a result of the insolvency of the Member net of such deliveries or payments. To be eligible for coverage, the Claim by any Customer must be filed with IPC or the trustee in bankruptcy or similar official of the insolvent Member within 180 days of the date of insolvency.

### **Date of Loss**

The date at which the financial Loss of a Customer is determined shall be fixed by IPC as the date of insolvency of the Member, which may be the date of the Member's bankruptcy, or the date on which, in the opinion of IPC, the Member became insolvent. The amount of Property delivered to a Customer in satisfaction of a Claim shall be the amount of Property to which the Customer was entitled as at such date for determining financial loss without regard to subsequent market fluctuations. In lieu of satisfying a Claim by the delivery of Property, cash in an amount equal to the value of the Property as at the date for determining financial Loss may be paid to the Customer even though the amount of such cash is not equal to the value of such Property as at the date of payment. Open positions in a Customer's account may, with or without notice, be closed out or liquidated pursuant to the terms of the account with the Member or correspondent broker, clearing house or exchange requirements or applicable insolvency legislation or orders.

### **Insolvency Legislation**

The determination of the amount of financial Loss suffered by a Customer of an insolvent Member for the purposes of payment by IPC and the maximum limits of such payments shall be in accordance with this Policy. In addition, IPC may exercise its discretion, in respect of determining Customers eligible for protection and the amount of financial Loss suffered, in a manner that is consistent with the right and extent to which a person may be entitled to claim against the customer pool fund of a Member under the *Bankruptcy and Insolvency Act* (Canada), subject to other restrictions in this Policy and the sole discretion of IPC to determine protection by IPC. IPC may rely on the trustee in bankruptcy or the receiver under applicable law in determining the amount and validity of Claims of a Customer and for the purpose of calculating financial Loss.

### **Determination by IPC Conclusive**

In the case of any question or dispute as to the interpretation or application of this Policy, including, without limitation, eligibility of the Customer, the amount of the financial Loss incurred by a Customer for the purposes of payment by IPC of a Claim and the maximum amounts to be paid to a Customer, the interpretation of IPC of this Policy shall be final and conclusive.

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