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MUTUAL FUND DEALERS ASSOCIATION OF CANADA PROPOSED AMENDMENTS TO MFDA BY-LAW NO. 1 SECTIONS 3.3 (ELECTION AND TERM), 3.6.1 (GOVERNANCE COMMITTEE), 4.7 (QUORUM)

<http://mfda.ca/wp-content/uploads/PropAmendBy-lawNo1-Governance.pdf>

Paige Ward

General Counsel, Corporate Secretary and Vice-President, Policy

Mutual Fund Dealers Association of Canada

121 King St. West, Suite 1000

Toronto, Ontario M5H 3T9

pward@mfda.ca

Anne Hamilton

Senior Legal Counsel

British Columbia Securities Commission

701 West Georgia Street

P.O. Box 10142, Pacific Centre

Vancouver, British Columbia, V7Y 1L2

ahamilton@bcsc.bc.ca

It is my pleasure to provide an investor's viewpoint on the proposed By-law No. 1 changes.

Canadians owned \$1.64 trillion in investment funds as of January 31, 2019. Investment funds in total account for 38% of Canadians' financial wealth. They are a cornerstone of Canadians' retirement savings for approximately 10 million Canadians. It therefore should be obvious that how their sale/distribution is regulated is a critical retail investor issue. Since the MFDA is a primary regulator, strong MFDA governance is vital to ensure investor protection is robust.

In an environment where retail investor trust is low, advice standards are weak and complaint handling adversarial, the MFDA can play an important role in supporting a more sustainable financial system. For the MFDA to be perceived as credible, investors and the securities market alike must know that it is fair, transparent and laser focused on protection of the retail mutual fund investor.

The consultation document states "It is not anticipated that the proposed amendments will have a material impact upon MFDA Members' systems, impose any material burden or constraint on competition or innovation, impose any material costs or restrictions on the activities of market participants, or result in any material increased costs of compliance." My question is -will the amendments lead to an SRO more attuned to the retail investor and better regulation?

There are some issues with the consultation. First off, the recommended changes are based on a report from Borden Ladner Gervais LLP (BLG) which is not included with the Consultation paper. It should have been included.

Second, BLG has publicly disclosed that it opposes a number of CSA investor protection proposals (https://www.osc.gov.on.ca/documents/en/Securities-Category8-Comments/com_20181213_81-105_border-ladner-gervais.pdf) making their selection as governance auditor controversial. "BLG concluded that the MFDA's corporate governance requirements and practices are consistent with best practices. Nevertheless, as corporate governance practices are ever evolving, BLG offered certain recommendations" – apparently not any recommendations based on input from investor advocacy groups had they been consulted.

Third, given the number of qualified retirees, thousands of highly educated women, and dozens of consumer/ investor advocates across Canada, we question why the MFDA needs to "address concerns relating to the limited pool of candidates for election as directors"? Is systemic bias at play?

Fourth, the issues raised in the report, while important, are not the top issues impacting MFDA Board governance from the retail investor perspective. I'd like to put forward some governance questions for the Board's consideration:

1. Why do the criteria for a Public Director not specifically require people that represent the voice of the retail mutual fund investor? The retail investor is, after all, the central stakeholder and the one that would be, and has been, adversely impacted by weak regulation. National Instrument NI81-105 was on the books since 1998 yet the first enforcement action occurred only in 2017. How does the Board explain this?
2. Why has a consumer advocate never been on the MFDA Board?
3. Why is it acceptable to have a short one year cooling off period? Is there so great a shortage of Public directors in Canada that Public Director positions must be made available to the regulator- industry complex? See Reference 1
4. Should the important Policy Advisory Committee include retail investors? [The Committee provides input on the proposed discussion paper/request for comment consultation document before it goes out for comment, so gets to provide input early in the process. The committee consists of Members: <http://mfda.ca/about/policy-committee/>]
5. Why has the Board refused to even consider an Investor Advisory Panel?
6. Is the Board comfortable with the prevailing rule making process?
7. Is the Hearing Panel process really achieving a material improvement in Member Conduct and personalized financial advice service standards?

8. Why is investor restitution not on the MFDA priority list?

As to the proposals, I do not agree to extending term limits for the reasons noted above. Six years is more than adequate to develop familiarity and expertise with MFDA affairs. I assume that the MFDA have a well-developed Director orientation package.

I do agree with the proposed changes to quorum rules for board meetings and governance committee meetings, requiring that Public directors form a majority.

Summary Corporate governance is typically defined as the collection of mechanisms, processes and relations by which corporations are controlled and operated. Governance structures and principles identify the distribution of rights and responsibilities among different participants in the corporation (such as the board of directors, management, regulators, and other stakeholders and include the rules and procedures for making decisions in corporate affairs. Corporate governance is necessary because of conflicts-of-interest between stakeholders. Corporate governance includes the processes through which the corporations' objectives are set and pursued in the context of the social, regulatory and market environment. These include monitoring the actions, policies, practices, and decisions of corporations, their agents, and affected stakeholders. Corporate governance practices are an attempt to align the interests of stakeholders. Re *Corporate Governance: Principles, Policies, and Practices*: Bob Tricke, March, 2015

The existence of the MFDA is due to Recognition Orders from provincial securities regulators. Certain obligations, accountabilities and powers are delegated, centered on the protection of retail investors. This consultation has focused on a few mechanical aspects of governance. I believe I have demonstrated that there are numerous other dimensions of good governance that have not been addressed. I recommend that the Board and Recognizing authorities take into account the points raised herein. Instead of claiming that MFDA governance follows contemporary best practices, it should assertively listen more to the voices of its most important stakeholder, its raison d'être- mutual fund unitholders.

Permission is granted for web posting of this submission.

Respectfully,

Arthur Ross

REFERENCES

- 1. Dealer wants more interaction from SRO** | Jan., 2006 Investment Executive
"..The issue comes at a particularly sensitive time for the MFDA. Less than a week after its AGM, one of its newly elected directors resigned, for fear that she didn't adequately meet its independence requirements. Ruth Grant, chairwoman of The Sick Kids Foundation and vice chairwoman of the board of

trustees at the Hospital for Sick Children in Toronto, had been elected to serve as a public director on the board for a three-year term at the most recent AGM. However, several days later it came to light that her husband, Doug Grant, is still a director of Sceptre Investment Counsel Ltd., a company that is an affiliate of an MFDA member. "Unfortunately, Ms. Grant thereby becomes ineligible to serve as a public director under the strict eligibility requirements of MFDA bylaws," Waite said in a letter to members. He added that once Ruth Grant became aware of this eligibility restriction, she resigned from the board..."

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