



ANNUAL ENFORCEMENT REPORT 2020

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MESSAGE FROM THE PRESIDENT AND CEO



“Going forward, we will continue to do what we do best – deliver responsible and effective regulation in the interests of all Canadians.”

I am pleased to present the 2020 Annual Enforcement report which highlights key enforcement activity over the course of 2020.

Thinking back over the last year I recall writing the Message from the President and CEO for the 2019 Annual Enforcement Report just as the global coronavirus pandemic had begun. I vividly remember the sense of uncertainty, unease and concern that was being felt by everyone across the country as the profound effect COVID-19 was about to make in our lives was becoming clear. Looking back over the past year, I am proud of the work, dedication and resilience demonstrated by both MFDA staff and MFDA Members in meeting the significant challenges and rapid changes that were brought about by the pandemic. Throughout this difficult year, and despite work-from-home and social distancing mandates, the MFDA was uninterrupted in its ability to effectively carry out its regulatory mandate to protect Canadian investors, while Members and Approved Persons were able to provide Canadian investors with continued access to investment advice during these difficult times and when they needed it the most.

As part of meeting the challenge of continuing operations during the pandemic the Enforcement Department leveraged the use of existing videoconferencing capabilities to ensure minimal disruption to both the investigative and hearings processes. The use of videoconferencing capabilities has proven to be very successful and to be both cost-effective and efficient. Given this positive experience, it is likely that the use of videoconferencing will remain part of MFDA processes going forward and will be employed in a manner that is flexible and facilitates access to justice for respondents, clients and other stakeholders.

A robust complaint handling requirement is the cornerstone of a regulatory regime that effectively protects investors. In 2020, the MFDA continued to focus on Member complaint handling and to prosecute appropriate cases against Members who fail to meet the necessary regulatory standards regarding the handling of complaints. The MFDA prosecuted several such cases in recent years and completed an additional case against a Member relating to deficiencies in its complaint handling in 2020. In addition, enforcement staff continues to proactively engage with Members regarding their complaint handling processes in order to maintain high-levels of compliance with these requirements.

I am glad to report that this year's Enforcement Report shows an important decrease in the number of signature cases. This decrease is due to both the efforts of MFDA staff in prosecuting these cases, which serve as a deterrent to future misconduct, and the efforts of MFDA Members in detecting and preventing these occurrences through their supervisory activities. In addition to the deterrent effect of the MFDA's enforcement activities and Members' supervisory efforts to stamp out signature cases we hope to continue to see decreases in these cases as the use and adoption of electronic signature technology by Members continues to expand.

Additional investor protection initiatives from 2020 set out in this report include a focus on concentration and KYC uniformity issues, sales practice issues stemming from the Targeted Review of Member Compensation and Incentive Programs project and a continued emphasis on Member supervision.

With respect to cases involving serious misconduct we will continue to vigorously pursue and prosecute these cases. Since 2013 MFDA enforcement staff has worked with various law enforcement agencies on over 40 such matters involving criminal misconduct and we will continue to refer cases involving such matter to relevant law enforcement agencies and to provide them with assistance in their investigations when requested.

Going forward, we will continue to do what we do best – deliver responsible and effective regulation in the interests of all Canadians.

I would like to thank all MFDA management and staff for their hard work and dedication. As an SRO responsible for regulating the distribution of mutual funds, which are the most widely held investment product by retail investors, there is no doubt that our collective efforts have had a large impact on enhancing investor protection across Canada.

Mark T. Gordon, LL.B.
President and CEO

A handwritten signature in blue ink, appearing to read 'Mark T. Gordon', written over a light blue horizontal line.

ABOUT US

Mutual Fund Dealers Association of Canada

The Mutual Fund Dealers Association of Canada (“MFDA”) is the national self-regulatory organization (“SRO”) for the distribution side of the Canadian mutual fund industry. The MFDA is structured as a not-for-profit corporation and its Members are mutual fund dealers that are licensed with provincial securities commissions.

The MFDA is formally recognized as a SRO by the provincial securities commissions in Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan. An application for recognition is pending before the Superintendent of Securities of Newfoundland and Labrador. The MFDA has also entered into a Co-operative Agreement with the Autorité des marchés financiers and actively participates in the regulation of mutual fund dealers in Quebec.

As an SRO, the MFDA is responsible for regulating the operations, standards of practice and business conduct of its Members and their representatives with a view to enhancing investor protection and strengthening public confidence in the Canadian mutual fund industry. As of December 31, 2020, the MFDA has 90 Members. These Members represent approximately \$626.776¹ billion of mutual fund assets under administration. MFDA Members are registered in every province and territory of Canada and service approximately 9 million households.

Enforcement Department

The Enforcement Department investigates situations where MFDA Members and their Approved Persons may have breached MFDA requirements. The Enforcement Department operates on several general principles:

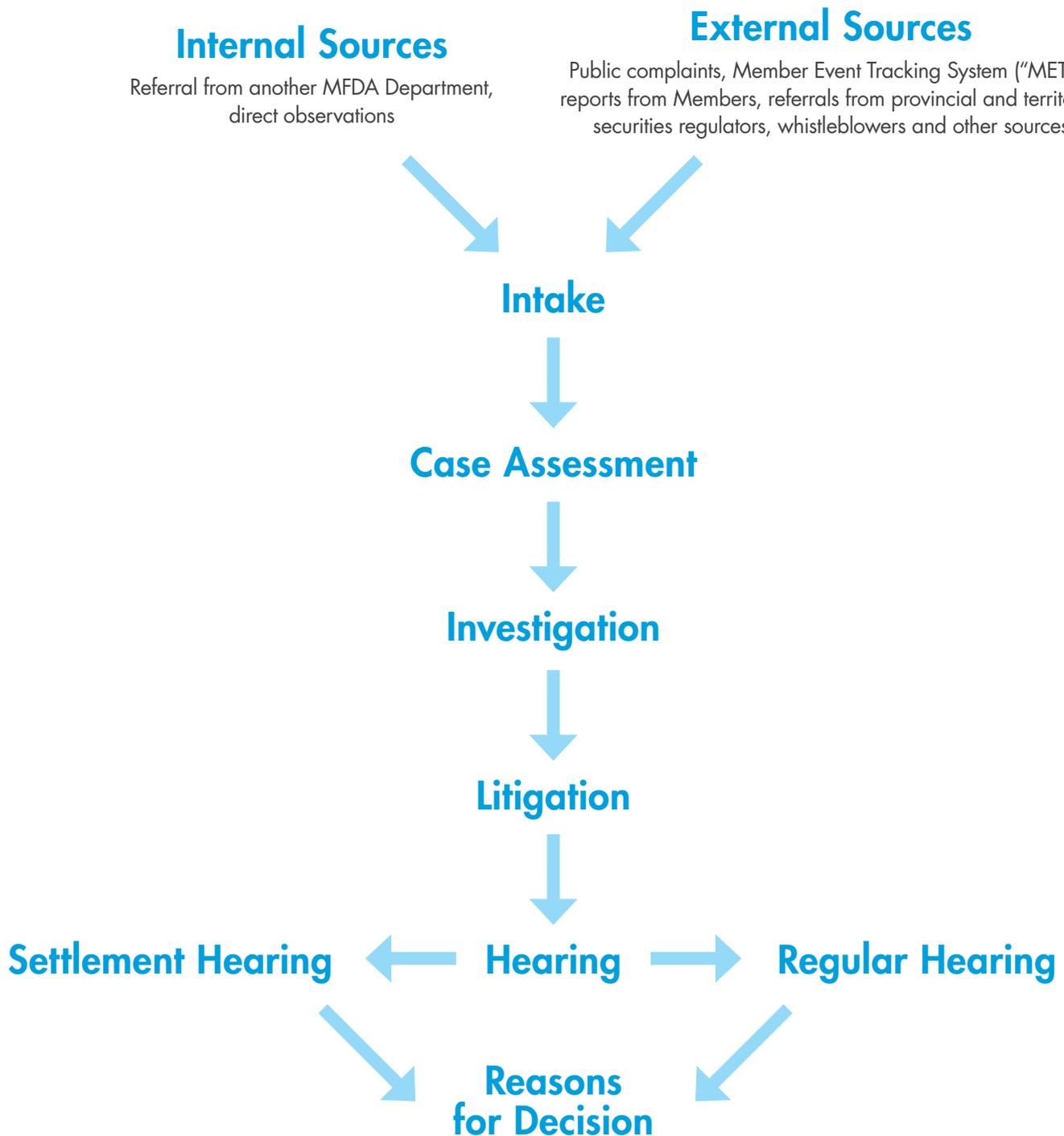
- The Enforcement Department considers general and specific deterrence in its decision making.
- Members and Approved Persons are provided opportunity for input before a decision is made on disciplinary action, except in urgent cases involving potential public harm.
- Member supervision of Approved Persons is reviewed in all cases.
- The fairness and timeliness of a Member’s complaint handling is reviewed in all cases involving an investor complaint.
- Cases are reviewed proactively, with a view to identifying possible associated misconduct and assessing root causes.
- The Enforcement Department works on a cooperative basis with:
 - Other regulatory agencies and law enforcement organizations.
 - MFDA Compliance and Policy Departments and refers cases and issues to these departments where appropriate.

The Enforcement Department has four main functions: Intake, Case Assessment, Investigations and Litigation.

Case screening occurs throughout the enforcement process and cases may be closed at any stage of the enforcement process. Screening factors include the seriousness of the alleged misconduct, whether the alleged misconduct resulted in significant losses or harm to investors, and whether the victim is part of a vulnerable or priority group. The screening factors include many of the same considerations in the MFDA’s Sanction Guidelines.

¹ This figure only includes mutual fund assets under administration and does not include other financial product assets under administration by MFDA Members. This figure is up from the 2019 figure of \$556.117 billion of mutual fund assets under administration by MFDA Members.

ENFORCEMENT PROCESS



Note: Provincial securities legislation allow Respondents and in many cases MFDA Staff to appeal a decision of an MFDA Hearing Panel to the applicable securities regulator.

STATISTICS

TABLE 1: Overview of Enforcement Department Activity (2018-2020)

The table below summarizes overall activity for the Enforcement Department.

	2018	2019	2020
Cases Opened	458	453	461
Cases Closed	537	503	457
Warning Letters	127	92	60
Cautionary Letters	114	113	112
Proceedings Commence	136	78	79

Warning letters are issued in circumstances where the violation is one that the MFDA could have escalated to a formal disciplinary hearing, but has chosen not to due to screening factors. The decrease in Warning Letters for 2019 and 2020 is due primarily to a decrease in signature and forms cases. Cautionary letters are issued when the violation is minor or less serious in nature and one that the MFDA would not generally escalate to a formal disciplinary hearing. While Cautionary Letters are disciplinary in nature, they are often issued for educational purposes.

TABLE 2: Cases Opened at Case Assessment by Source (2018-2020)

Source	Number of Cases		
	2018	2019	2020
METS	297	272	269
Public	126	137	143
CSA and Other Regulators	11	5	26
MFDA Compliance	8	18	10
Whistleblower	4	9	6
Financial Industry Participant	6	4	4
Member	3	3	2
Other	3	N/A	1
Media	N/A	3	N/A
Referral from Membership Services	N/A	2	N/A
Total	458	453	461

TABLE 3: Primary Allegations Made in Cases Opened at Case Assessment (2018-2020)

The table below lists the primary allegation made in cases opened at the Case Assessment stage.

Nature of Primary Allegation	Number of Cases		
	2018	2019	2020
Business Standards	41	38	87
Suitability – Investments	40	38	61
Unauthorized/Discretionary Trading	25	26	50
Pre-Signed Forms	70	94	22
Complaint Procedure	24	22	21
Transfer of Accounts	6	17	21
Policy & Procedures	29	17	19
Personal Financial Dealings	17	19	18
Active Signature Falsification	15	18	17
Commissions and Fees	40	29	16
Outside Activity	10	11	13
Conflict of Interest	19	15	11
Forgery/Fraud/Theft/Misappropriation/ Misapplication	13	13	10
Suitability – Leveraging	9	11	9
Confidentiality/Privacy	11	10	8
Supervision	21	13	7
Falsification/Misrepresentation	11	12	6
KYC Documentation Deficiency	6	12	6
Reporting Violations	6	4	6
Acting Outside Registration Status	9	3	6
Know Your Product	8	4	5
Stealth Advising	5	2	5
Other	23	25	37
Total	458	453	461

TABLE 4: Enforcement Proceedings (2018-2020)

The table below shows the total number of formal enforcement proceedings commenced in the last three years. It also shows for each year how many of those proceedings were commenced utilizing the Bulk Track Process that provides for a more efficient process in cases where a violation of MFDA requirements is not disputed by the Respondent. Similar to 2019, the MFDA continued to see less signature and forms and cases in 2020. The decrease in proceedings commenced from 2018 is due primarily to a decrease in signature cases.

Year	Proceedings Commenced	Bulk Track Cases
2020	79	37
2019	78	36
2018	136	70

Member Cases

Year	Proceedings Commenced
2020	4
2019	2
2018	9

TABLE 5: Proceedings Commenced (2020) – All Allegations

The MFDA commenced 79 proceedings in 2020 by Notice of Hearing or Notice of Settlement Hearing. Many of the proceedings involved more than one alleged violation of MFDA Rules, By-laws or Policies.

Nature of Allegation	Number of Allegations Against Approved Persons	Number of Allegations Against Members
Pre-Signed Forms	34	-
Policy & Procedures	28	1
Falsification/Misrepresentation	16	-
Active Signature Falsification	16	-
Personal Financial Dealings	11	-
Failure to Cooperate	11	-
Conflict of Interest	9	-
Forgery/Fraud/Theft/Misappropriation/Misapplication	9	-
Business Standards	6	1
Outside Activity	7	-
Supervision	3	2
Acting Outside Registration Status	4	-
Conduct Unbecoming	4	-
Unauthorized/Discretionary Trading	4	-
Complaint Procedure	2	1
Reporting Violations	2	1
Suitability – Investments	3	-
Confidentiality/Privacy	2	-
Financial Requirements	-	2
Referral Arrangements	2	-
Sales Communication	2	-
Stealth Advising	2	-
KYC Documentation Deficiency	1	-
Provincial Securities Legislation	1	-
Sub-total	179	8
Total	187	

TABLE 6: Proceedings Concluded (2018-2020) – Type of Penalty

In 2020, the Enforcement Department concluded 77 hearings. In those 77 hearings, MFDA Hearing Panels imposed fines of \$3,350,602 of which \$840,351 (25%) has been collected. Since the commencement of MFDA disciplinary activity in 2004, MFDA Hearing Panels have imposed total fines of \$100,347,447 of which \$14,618,434 (approximately 14%) has been collected.

The MFDA has fine collection powers in all the provinces that the MFDA is recognized in. MFDA Staff makes all reasonable efforts to collect any outstanding fines from former Respondents in provinces where the MFDA is recognized. However, successful collection of outstanding fines using these powers depends on several factors including but not limited to the availability of assets to collect against and the Respondent's status with respect to any bankruptcy or similar proceedings.

The table below shows the penalties imposed against Members and Approved Persons by Hearing Panels in hearings concluded from 2018 to 2020. A lower quantum of fines was imposed in 2020 because fewer cases were completed in this year, which in turn is due to a decrease in the number of signature and forms cases. It is also attributable to fewer serious Approved Person misconduct cases (such as frauds and personal financial dealings causing significant client harm which attracted fines in excess of \$100,000).

Type of Penalty	2018	2019	2020
Permanent Prohibition	19	22	16
Suspension	41	56	24
Educational Course Requirement	5	7	3
Total Fines	\$6,080,031	\$9,298,603	\$3,350,602
Total Costs	\$592,000	\$558,425	\$369,501

TABLE 7: Hearings Concluded (2018-2020) – Type of Hearing

Type of Hearing	2018	2019	2020
Contested/Uncontested Hearing	34	22	21
Settlement Hearing	98	98	56
Total Number of Hearings	132	120	77

NEW DEVELOPMENTS



COVID-19 Update

Despite COVID-19 and the transition to predominantly working from home, Enforcement continued to perform its core functions. Case Assessment continued to accept, review and respond to complaints and inquiries from the public. Investigations and Litigation remained fully operational and conducted interviews and hearings remotely.

To assist Members, Enforcement published guidance with respect to the reporting of METS events, and encouraging Members to contact Enforcement if Members were experiencing difficulties meeting any Enforcement-related MFDA requirements. Enforcement initially received and responded to inquiries from a small number of Members pertaining mostly to expectations regarding complaint handling and the receipt of mail. Since that initial period, Enforcement has not received additional requests for guidance from Members, and Members are meeting their Enforcement-related obligations.

In February/March 2020, Staff observed an increase in the number of METS complaints reported by Members and complaints submitted by clients. Since that time, Staff observed a decrease in the number of complaints and complaint volume has been at typical pre-COVID-19 levels since about mid-May 2020. This complaint volume pattern corresponded with the recovery of the financial markets.



Virtual Interviews and Hearings

As a result of the COVID-19 pandemic, the Enforcement Department transitioned to conducting investigative interviews and hearings remotely using virtual technologies and other means to facilitate the participation of relevant parties in the MFDA's Enforcement processes. The use of these technologies has enabled Enforcement Staff to continue to discharge their duties in a work-from-home environment, including the review of complaints and inquiries from the public.

Enforcement staff has found that remote hearings and interviews have proven to be efficient and cost-effective, and have the potential to increase access to justice for respondents, clients and other stakeholders. Given the benefits and success of carrying out these enforcement functions remotely, the Enforcement Department intends to continue employing these processes, in appropriate cases, even after the conclusion of the COVID-19 pandemic and the end of social distancing mandates.



Amendment to MFDA Rules 1.1.1(a)

MFDA Rule 1.1.1(a) requires that all such securities related business is carried on for the account of the Member, through the facilities of the Member (except as expressly provided in the Rules) and in accordance with the By-laws and Rules. In 2020, the MFDA amended the permitted exceptions to MFDA Rule 1.1.1(a). The amendments are intended to permit Approved Persons to engage in securities related business as an employee of a credit union or caisse populaire, as permitted by applicable securities legislation, for the account of, and through, the facilities of the credit union, rather than the Member. The amendments to MFDA Rule 1.1.1(a) have received all the requisite approvals and are now in effect.

KEY ENFORCEMENT ACTIVITY



Referrals to Law Enforcement

Section 23.3 of MFDA By-Law No. 1 allows the MFDA to provide assistance to law enforcement, including providing information to law enforcement in the MFDA's possession. The Enforcement Department continues to ensure that cases involving criminal misconduct, such as theft and fraud, are referred to law enforcement. This is done either through a direct referral to law enforcement or through coordination with provincial securities regulators. The MFDA also encourages Members and complainants to directly contact law enforcement to report criminal activity.

When the MFDA becomes aware that a law enforcement agency is investigating the conduct of an Approved Person or a Member, the Enforcement Department will initiate contact with that law enforcement agency and offer assistance. Since January 1, 2013, the MFDA has worked with law enforcement on 45 matters involving theft or fraud by either referring the matter to their attention or by providing assistance with an ongoing investigation.

In cases where a referral is made to law enforcement, the Enforcement Department will continue to investigate and, where appropriate, take disciplinary action against the subject(s).



Concentration and KYC Uniformity

In recent years, the MFDA has identified cases in which Approved Persons have documented the same or substantially similar Know-Your-Client ("KYC") information for a large proportion of their clients ("uniformity of KYC information"). Particularly in circumstances where KYC records indicate that a disproportionate group of clients has a high risk tolerance, a long time horizon and/or aggressive investment objectives, this raises questions as to whether the KYC information has been accurately documented and collected by means of an objective process. In many cases, the Approved Person has recommended to a significant number of clients that they invest a substantial proportion of their investment portfolio in exempt products or in mutual funds that are comprised of investments in a particular sector of the economy ('sector mutual funds') such as precious metals or other natural resources.

In addition to investigating whether cases of KYC uniformity and investment concentration reflect contraventions of an Approved Person's obligations to accurately document KYC information and ensure that investment recommendations to clients are suitable, MFDA Enforcement Staff examine whether the Member has been conducting appropriate account and trade supervision to identify and address such cases. Many MFDA Members have implemented policies and procedures that impose limits on the percentage of a client's portfolio that can be invested in exempt products or sector mutual funds. Portfolio concentration in exempt products and sector mutual funds may indicate that such policies and procedures have been contravened.

In 2020, an MFDA Member admitted that it failed to adequately supervise to ensure that its Approved Persons were accurately documenting KYC information including querying situations in which two Approved Persons may have been recording uniform KYC information, and failed to query trades that could result in heavy concentration in sector funds or exempt market securities. The MFDA also commenced disciplinary proceedings against Approved Persons who recommended concentrated investment portfolios in precious metal sector mutual funds to a large number of clients.



Sales Practices

The Enforcement Department continues to investigate sales incentives practices at Members that may impact the sale of products to clients, that could potentially give rise to conflicts of interest, and that may not comply with the requirements set out in National Instrument 81-105. These programs were identified, in part, through the Targeted Review of Member Compensation and Incentive Programs project conducted in collaboration with various provincial securities regulators and the Investment Industry Regulatory Organization of Canada (see Bulletin #0705-C).

The MFDA has previously conducted a proceeding against a Member for, among other things, failing to establish and maintain an adequate system of controls and supervision to ensure that it complied with securities legislation relating to internal dealer sales incentives practices. The MFDA expects to commence further proceedings in 2021 in respect of Member sales incentive practices.

The MFDA has identified practices by Approved Persons which may have impacted the sale of products to clients and created potential conflicts of interest. In two cases, MFDA Hearing Panels accepted settlements with Approved Persons who admitted to processing transactions in client accounts as redemptions and purchases, rather than as switches, to ensure the transactions counted towards their dealer's sales targets. In another case, an Approved Person admitted to opening and processing trades in fictitious mutual fund accounts in order to receive promotional monies that were payable to clients and to increase sales revenues for compensation purposes.



Signature Falsification Cases

The MFDA continued its efforts to address cases involving the use of pre-signed forms and situations where client signatures are falsified by Approved Persons. Most of the cases investigated by the MFDA do not involve client complaints, an intent on the part of the Approved Person to harm the client or resulting financial harm to the client. In those cases, the activity is done for the purposes of client or advisor convenience. Activity of this type was an allegation in 39 of the 79 formal proceedings commenced by the MFDA in 2020, which is consistent with 2019 and continues an overall downward trend in the number of signature falsification cases compared to previous years. In a small number of cases, signature falsification is used to conduct a further violation of MFDA Rules such as discretionary trading, unauthorized trading or misappropriation. Four of the 79 formal proceedings that the MFDA commenced in 2020 fell into this latter category.

Regardless of whether the conduct is for the purposes of convenience or to commit a further regulatory violation, Hearing Panels of MFDA Regional Councils have consistently ruled that signature falsification is not permissible under MFDA Rule 2.1.1, which requires Members and Approved Persons to deal fairly, honestly and in good faith with clients and observe high standards of ethics and conduct in the transaction of business. The MFDA will continue to address these cases as a priority.

This year, MFDA Staff updated MSN-0016 to clarify that electronic signatures are permitted where a signature is required. Adoption of electronic signature technology by Members has improved efficiency and enhanced convenience to clients, and can address concerns related to the use of pre-signed or altered forms by Approved Persons by no longer requiring clients to attend in-person to sign documents.

ENFORCEMENT PRIORITIES



Supervision

MFDA Rule 2.5.1 states that each Member is responsible for establishing, implementing and maintaining policies and procedures to ensure the handling of its business is in accordance with the By-laws, Rules and Policies of the MFDA and with applicable securities legislation. The MFDA reviews Member supervision in every enforcement case. This assessment includes the review of the Member's execution of its supervision of its regular daily business activities prior to being alerted to potential misconduct by an Approved Person, as well as the completeness and reasonableness of its supervisory investigation after being alerted to potential misconduct.

Where the MFDA identifies material deficiencies in a Member's supervision, the MFDA may undertake a proceeding against the Member. In 2020, the MFDA completed several Member supervision cases. Please refer to the section Case Highlights, Member Cases on page 16 for a summary of Member cases completed by the MFDA in 2020.



Complaint Handling

The MFDA continues to focus on the handling of client complaints by Members in order to foster continued investor confidence in the mutual fund industry. The MFDA reviews and assesses Member complaint handling against the principles set out in MFDA Policy No. 3 in every enforcement case that involves a client complaint.

MFDA Rule 2.11 requires that Member firms implement policies and procedures for handling client complaints that address the minimum complaint handling requirements set out in MFDA Policy No. 3, including responding to client complaints in a fair and prompt manner. Fair and prompt complaint handling demonstrates to clients that complaints are taken seriously and that Members are responsive to their clients.

Where the MFDA believes that a Member may have failed to respond to a client complaint in a fair and prompt manner, Enforcement Department Staff often engage in dialogue with Member Compliance Staff regarding the issues, and the Member's approach to assessing them. In this way, the MFDA seeks to educate Members about fair complaint handling principles, and in doing so, to facilitate consistency in approach to the handling of client complaints by all MFDA Members.

In 2020, the MFDA completed several Member cases, including a case against a Member concerning deficiencies in Member complaint handling. In a Settlement Agreement, the Member admitted that it failed to handle 13 client complaints fairly and promptly in accordance with MFDA Policy No. 3 and Rule 2.11. When handling the client complaints, the Member failed to issue timely substantive responses to clients; failed to investigate and assess complaints in a thorough, balanced and objective manner; and issued inadequate and unfair substantive responses. Please refer to the section Case Highlights, Member Cases on page 16 for more information and for a summary of Member cases completed by the MFDA in 2020.

In cases involving client complaints, the Enforcement Department will continue to review and assess Member complaint handling against the principles set out in MFDA Policy No. 3. and, where appropriate, take disciplinary action against Members.



Seniors and Vulnerable Persons

The protection of seniors and vulnerable persons continues to be an area of focus for the MFDA. The MFDA continues to encounter the following situations involving seniors and vulnerable persons: receiving unsuitable investment advice from Approved Persons, loaning money to Approved Persons (often where the money was never repaid), and providing Executor Powers to Approved Persons.

The MFDA places a priority on cases involving seniors and vulnerable persons. In 2020, 30% of commenced proceedings involved seniors or vulnerable persons (other than signature falsification cases that do not involve a client complaint or harm to a client).

In 2020, the MFDA undertook and continued to perform a number of activities to improve the protection of seniors and vulnerable persons. These activities include the maintenance of the Seniors' Section of the MFDA website and the publication of several Investor Bulletins focusing on investing in the age of COVID-19. In addition, in June 2020 the MFDA published a Seniors' Bulletin which focuses on providing information to help protect seniors from phishing scams and other fraudulent schemes.

The MFDA is actively engaged with the Canadian Securities Administrators in developing a flexible and responsive regulatory approach to address issues of financial exploitation and diminished mental capacity among seniors and vulnerable clients.

CASE HIGHLIGHTS MEMBER CASES

KEYBASE FINANCIAL GROUP INC.

Reasons for Decision: July 24, 2020

In a Settlement Agreement, Keybase Financial Group Inc. (“Keybase”) admitted that it failed to handle 13 client complaints promptly and fairly.

The complaints pertained to a leveraged investment strategy that the clients had implemented in their accounts. After implementing the strategy, the clients experienced investment losses.

When handling the client complaints, Keybase: failed to issue timely substantive responses to clients; failed to investigate and assess complaints in a thorough, balanced and objective manner; and issued inadequate and unfair substantive responses.

Subsequent to the events described above, Keybase appointed an independent consultant in order to resolve

its complaint handling deficiencies. Keybase paid approximately \$89,000 for the consultant’s services, and it paid \$245,181 to compensate complainants for losses incurred as a result of the strategy described above. Keybase also offered to pay \$71,000 to another client as compensation for losses after one of its Approved Persons arranged for the client to invest in certain off book private mortgage investments. In addition, in accordance with terms and conditions that were previously imposed on it by the Ontario Securities Commission, Keybase paid approximately \$200,000 to another consultant to complete a comprehensive review of its general compliance policies, procedures and practices.

The Hearing Panel accepted the Settlement Agreement and imposed a fine of \$35,000 and costs of \$5,000.

PEAK INVESTMENT SERVICES INC.

Reasons for Decision: August 18, 2020

In a Settlement Agreement, PEAK Investment Services Inc. (“PEAK”) admitted that it failed to:

- ensure that, among other things, on-site branch and sub-branch reviews occurred at each of its business locations;
- implement adequate policies, procedures and internal controls to ensure that it complied with its obligations to make mandatory reports to the MFDA on the Member Event Tracking System (“METS”) on a timely basis; and
- conduct adequate or timely supervisory investigations after discovering potential misconduct by its Approved Persons.

With regard to PEAK’s failure to conduct adequate or timely supervisory investigations, PEAK had discovered that 10 of its Approved Persons were potentially engaged in various types of serious misconduct that

included the following: unauthorized trading; personal financial dealings; undisclosed outside activities; and alleged misappropriation. 9 of the 10 Approved Persons were subsequently named as respondents in MFDA disciplinary proceedings.

Subsequent to the events described above, PEAK: expended significant resources and engaged external consultants and lawyers to review and assist it to revise its policies and procedures; hired additional compliance staff; restructured its compliance department; retained a consultant to assist with the branch review program and subsequently hired the consultant as a full time employee; hired a new Chief Compliance Officer; and established a compliance committee composed of senior executives.

The Hearing Panel accepted the Settlement Agreement and imposed a fine of \$75,000 and costs of \$15,000.

PORTFOLIO STRATEGIES CORPORATION

Reasons for Decision: November 30, 2020

In a Settlement Agreement, Portfolio Strategies Corporation (“Portfolio Strategies”) admitted to several sales and financial compliance deficiencies that were identified by MFDA Compliance.

In particular, Portfolio Strategies admitted that it:

- did not adequately supervise and did not establish, implement and maintain adequate supervisory policies and procedures with respect to the reasonability of KYC information and the suitability of trades including consistency with KYC information, concentration in sector mutual funds and exempt market securities and the sale of DSC Mutual Funds to clients;
- failed to maintain a branch review program that ensured that an on-site compliance review of all its branches and sub-branches was conducted at least once every three years; and
- did not maintain evidence of any nominee name reconciliations that were completed.

In 2017, Portfolio Strategies terminated its Chief Compliance Officer (“CCO”) who acted in that capacity during the period which gave rise to the compliance deficiencies described above. Portfolio Strategies’ new CCO worked cooperatively with MFDA Compliance to address the compliance deficiencies.

Subsequent to the events described above, Portfolio Strategies: implemented a new proper branch review program and hired dedicated audit staff; took steps to improve its internal controls and reconciliation procedures; and implemented a revised version of its policies and procedures in order to address its compliance deficiencies.

The Hearing Panel accepted the Settlement Agreement and imposed a fine of \$100,000 and costs of \$10,000

CARTE WEALTH MANAGEMENT INC.

Reasons for Decision: not yet issued

In a Settlement Agreement, Carte Wealth Management Inc. (“Carte”) admitted that between June 30, 2019 and December 31, 2019, it failed to maintain at all times a risk adjusted capital (“RAC”) greater than zero.

Carte subsequently reported that the RAC deficiency had been rectified and that it had a positive RAC of \$5,978. Carte also obtained an additional \$30,000 via a subordinated loan, which further ensured that it would maintain a RAC above zero.

Prior to the events described above, Carte had been designated in Early Warning on several prior occasions.

Subsequent to the events described above, Carte hired a new staff member, a Chartered Accountant, who is now responsible for its financial affairs on a full-time basis. Carte has also taken remedial measures acceptable to MFDA Staff, including establishing policies and procedures to prevent its RAC from falling below zero again.

The Hearing Panel accepted the Settlement Agreement and imposed a fine of \$10,000 and costs of \$5,000.

CASE HIGHLIGHTS APPROVED PERSON CASES

KENNETH ALLAN PARKER

Reasons for Decision: September 14, 2020

In a Settlement Agreement, Parker admitted that he submitted annual reports to the Member's board of directors (the "Board") which failed to accurately report on the status of branch and sub-branch reviews required to be completed by the Member, thereby failing to carry out his responsibilities as Chief Compliance Officer.

In 2012, MFDA Compliance found that the Member had not implemented a compliant branch and sub-branch review program. Parker submitted an action plan along with a branch review schedule to MFDA Compliance in order to address the findings.

Between 2014 and 2016, Parker submitted annual reports to the Board stating that the branch review schedule described above was being met by the Member. At the time Parker submitted the annual reports, he knew or ought to have known that the number of branch and sub-branch reviews performed did not meet the requirements of the branch review schedule. In his 2016 annual report, Parker also inaccurately reported the number of sub-branch reviews that were performed during 2015.

The Hearing Panel accepted the Settlement Agreement and imposed a fine of \$20,000 and costs of \$5,000.

RUI GUO (ALSO KNOWN AS RAY GUO)

Reasons for Decision: April 2, 2020

In an Agreed Statement of Facts, Guo admitted that he opened and processed trades in at least 29 fictitious mutual fund client accounts in order to receive promotional monies that were payable to new banking clients and increase his sales revenues for compensation and retention purposes.

In particular, Guo opened fictitious bank and mutual fund accounts based on real people, signed client signatures on bank and mutual fund account

documentation, and processed transactions in these accounts in order to receive promotional payments from the Member's bank affiliate which totaled \$8,000. Guo used some or all of the monies from the promotional payments for personal purposes.

The Hearing Panel imposed a permanent prohibition from acting as a mutual fund salesperson, a fine of \$15,000 and costs of \$5,000.

JAMIE LEE LEONARD

Reasons for Decision: October 2, 2020

In a Settlement Agreement, Leonard admitted that:

- he processed 43 transactions in respect of 38 clients as redemptions and purchases, rather than as switches, which exposed the clients to risk of market loss and which Leonard knew would result in the transactions counting toward his sales targets at the Member; and
- failed to execute 18 mutual fund purchases on a timely basis, which resulted in 21 clients incurring losses in their accounts.

By processing transactions as redemptions and purchases, rather than as switches, Leonard exposed the clients to the risk of a change in value of the funds as the clients' assets were not invested while the trades settled. Leonard's conduct resulted in client losses to a maximum of \$3,100 per client and \$13,000 in total

The Hearing Panel accepted the Settlement Agreement and imposed a 2 year prohibition from conducting securities related business for any MFDA Member, a fine of \$2,500 and costs of \$2,500.

KINDLE BRITEN MEGAN BLYTHE

Reasons for Decision: February 11, 2020

In a Settlement Agreement, Blythe admitted that she:

- submitted 3 KYC Update Forms to the Member to update account records of client X without exercising due diligence to ensure that client X was aware of and had authorized the changes;
- facilitated the processing of approximately 180 trades in the investment accounts of client X without exercising due diligence to ensure that client X had authorized all elements of the trades; and
- created records of purported instructions received from client X which had not in fact been received and failed to exercise due diligence to ensure that the records of instructions that she created accurately described instructions that had been received from client X.

Client X's accounts were serviced jointly by Blythe and a co-respondent. However, the co-respondent was the primary Approved Person who serviced client X's accounts. Blythe states that she relied on the co-respondent's representations that client X had signed and authorized the changes in the KYC Update Forms and provided trade instructions to the co-respondent. In fact, client X had not signed the KYC Update Forms and did not provide trade instructions to the co-respondent in respect of any of the trades.

The Hearing Panel accepted the Settlement Agreement and imposed a fine of \$35,000 and costs of \$5,000.

STEVEN JOHN HAGERMAN

Reasons for Decision: September 25, 2020

In a Settlement Agreement, Hagerman admitted that he opened an account and processed trades in an account for a client that he had never met or communicated with on the basis of advice and instructions provided by an unregistered individual (his brother), and failed to use due diligence to learn the essential facts relative to the client and to ensure that each order accepted was suitable. Hagerman's conduct was, among other things, contrary to the Member's policies and procedures regarding stealth advising.

Hagerman conducted business at a financial services company that was owned by his brother DH. Following a meeting with a client, DH who was not registered

in the securities industry spoke to Hagerman about opening an RESP account for the client at the Member. Although Hagerman had never met or communicated with the client, he agreed to open the account. Hagerman then signed the client's account opening documents, which contained investment instructions, as the Representative responsible for servicing the account.

The Hearing Panel accepted the Settlement Agreement and imposed a 4 month prohibition from conducting securities related business for any MFDA Member, a fine of \$7,500 and costs of \$5,000.

STEVEN JULES RETHY

Reasons for Decision: December 7, 2020

In a Settlement Agreement, Rethy admitted that he concealed from the Member that he had recommended that two clients borrow monies to invest.

Effective November 2009, the Nova Scotia Securities Commission imposed terms and conditions on Rethy's leveraging activities.

In or about June 2010, Rethy met with the clients described above and recommended that they increase their homeowner line of credit to the maximum amount available and use those funds to invest \$100,000 in mutual funds for their joint account. When questioned by the Member regarding the proposed transaction, Rethy advised the Member that the source of the funds was not leveraged monies, thus misleading the Member. Rethy knew that the Member would not otherwise have authorized the transaction.

After the transaction was completed, the Member became aware that the source of the clients' funds for investment had been leveraged monies, contrary to what Rethy had advised the Member. Subsequently, the Member: paid compensation of \$35,741 to the clients for losses incurred in relation to the investment recommendation made by Rethy; deducted \$35,741 from Rethy's commissions; and fined Rethy \$1,500.

The Hearing Panel accepted the Settlement Agreement and imposed a 5 month suspension from conducting securities related business for any MFDA Member, a permanent prohibition from engaging in any new leveraging activities with clients, a fine of \$10,000 and costs of \$5,000.

HEARINGS

CONCLUDED BY TYPE OF PRIMARY ALLEGATION

Acting Outside Registration Status

Eisenberg, Tamar*
Gomes, Glen

Active Signature Falsification

Berget, Robert
Bilton, Samuel
Castelino, Tanya
Coronel, Leonard
Haines, Norman
Kee, Robyn Courtney
Kotschorek, Shauna
Liu, Han
McIvor, Lee

Complaint Procedure

Keybase Financial Group Inc.

Conflict of Interest

Leonard, Jamie

Failure to Cooperate

Balani, Lachman
Cheema, Manjit
Dean, David Jeremy
Kim, Jay
McIvor, Lee
Surette, Frank

Falsification/ Misrepresentation

Rethy, Steven

Forgery/Fraud/Theft/ Misappropriation/ Misapplication

Davies, Christopher
Guo, Rui aka Ray
Hothi, Rajvir
Li, Meng Xi (Erin)
Palumbo, Robert

KYC Documentation Deficiency

Botescu, Adrian

Outside Activity

Bagga, Gurmeet
Bédard, Michel
Ongechi, Duke
Pa, Frank
Patel, Vasant Pragjibhai

Personal Financial Dealings

Alam, MD Shakirul
Castle, Winston
Cragg, Stephen
Elwood, John
Manalastas, Jose
Phillips, James
Secord, Madrie
Zamrykut, Raymond

Policy & Procedures

Mantzios, Evangelos-Angelos

Pre-Signed Forms

Allan, Willam
Bates, Jerome
Bates, Keith
Culliton, Shawn
Donais, Hugo
Foster, Kenneth
Geisel, Lawrence

Graham, Perry
Hunter, James
Johnston, Robert
Jutting, Catharina
Kawka, Marek
Kent, Robert
Lasher, David
Lok, Albert
Mandic, Nenad
Minierva, Inocencia
Parker, Sean
Prabhune, Aparna
Saffran, Jared
Sexton, Gary
Sonne, Brian
Trevor, Leslie
Warr, Timothy
Williams, Jeffrey
Wilson, Randal

Stealth Advising

Hagerman, Steven

Suitability - Investments

Kausar, Tanzeela
Varteresian, Peter

Supervision

Innes, Mary
Parker, Kenneth
Peak Investment Services Inc.
Portfolio Strategies Corporation

Unauthorized/ Discretionary Trading

Arena, Stefano
Blythe, Kindle
Jaswal, Rohit
Wighton, Nadine

GLOSSARY

Active Signature Falsification

Refers to instances in which an Approved Person or other individual signs the client's signature or initials on a document in an effort to make it appear the client actually signed the document.

Approved Person

Refers to an individual who is a partner, director, officer, compliance officer, branch manager, or alternate branch manager, employee or agent of a Member who (i) is registered or permitted, where required by applicable securities legislation, by the securities commission having jurisdiction, or (ii) submits to the jurisdiction of the MFDA.

Business Standards

Refers to a breach of the high business standards required by MFDA Rule 2.1.1(b).

Canadian Securities Administrators

Refers to the umbrella organization of provincial and territorial securities regulators in Canada.

Commissions and Fees

Refers to allegations involving practices such as disclosure of commission structure and cost, and other issues such as where an Approved Person recommends a trade or multiple trades in a client's account for the purpose of generating sales commissions or otherwise creating a benefit for the Approved Person where there is little or no rationale for the trade.

Complaint Procedures

Refers to allegations involving the requirement that every Member shall establish written policies and procedures for dealing with client complaints that ensure that such complaints are dealt with promptly and fairly.

Concentration Risk

Refers to the risk posed to a client when a client's accounts are concentrated into a single investment or sector, which can be subject to greater volatility and pose greater risk than accounts that are well diversified.

Discretionary Trading

Refers to a situation whereby a Member or Approved Person is granted authority by the client to make a trade without obtaining specific instructions from the client prior to the execution of the trade concerning one or more elements of the trade: selection of the security to be purchased or sold, the amount of the security to be purchased or sold, and the timing of the trade. MFDA Members and Approved Persons are not permitted to engage in discretionary trading.

Falsification

Refers to the false making or alteration of a document by which the rights or obligations of another person are affected but where a person is not deprived of a property or a right.

Forgery

Refers to the creation of a false document with the intent that it be acted upon as the original or genuine document, and where the victim is deprived of property or rights.

Fraud

Refers to an act of dishonest deception, misrepresentation, or an intentional distortion of truth in order to induce another to part with something of value or to surrender a legal right.

Handling of Funds

Refers to the failure to properly handle client funds in accordance with MFDA requirements.

Know-Your-Client ("KYC")

Refers to the requirement that a Member and Approved Person collect information about a client to assist in making suitable investment recommendations.

Leveraging

Refers to the practice of using borrowed money for the purpose of investing.

Member

Refers to mutual fund dealers that are Members of the MFDA.

Misapplication of Funds

Refers to situations where funds in the rightful possession of an Approved Person or Member are put to an improper purpose for the benefit of a third party.

Misappropriation

Refers to situations where a person has a right to be in possession of property but puts it to his or her own benefit.

Misrepresentation

Refers to a misstatement or omission of a material fact with the intent to deceive.

Outside Activities (“OA”)

Refers to any activity conducted by an Approved Person outside of the Member: (a) for which direct or indirect payment, compensation, consideration or other benefit is received or expected; (b) involving any officer or director position and any other equivalent positions; or (c) involving any position of influence.

Personal Financial Dealings (“PFD”)

Refers to situations in which an Approved Person or Member engages in financial activity with a client. A concern arising from this type of conduct is that conflicts of interest arise in connection with such activity. PFD can include borrowing from clients, lending to clients, and engaging in private investment schemes with clients.

Policies and Procedures

Refers to the requirement on Members to establish and maintain written policies and procedures (that have been approved by senior management) for dealing with clients and ensuring compliance with the Rules, By-laws and Policies of the MFDA, and applicable securities legislation.

Pre-Signed Form

Refers to forms that have been signed by a client when they were blank or only partially completed.

Provincial Securities Legislation

Refers to the violation of provincial securities legislation and requirements for which there is no comparable MFDA requirement.

Referral Arrangements

Refers to an arrangement whereby a Member is paid, or pays a fee for the referral of a client to, or from, another person. All referrals must go through a Member.

Sales Communications

Refers to the requirement that advertisements and sales communications must be approved by a designated partner, director, officer, compliance officer or branch manager before being issued. The rationale for this is to ensure that no misleading, inaccurate or otherwise prohibited information is provided to a client who may act upon such information in making investment decisions.

Self Regulatory Organization (“SRO”)

A Self-Regulatory Organization (“SRO”) is an entity that is organized for the purpose of regulating the operations and the standards of practice and business conduct of its members and their representatives with a view to promoting the protection of investors and the public interest.

Senior

Refers to investors 60 years of age or over.

Signature Falsification

Refers to the creation, possession, or use of documents which have been pre-signed or on which client signatures have been falsified through other means. Examples include cutting and pasting a previous signature, signing a client’s name to a document, having a client sign multiple forms for use in future trading, and using liquid paper to white out old instructions and write in new ones on a signed client form.

Suitability

Refers to the requirement that recommendations made by an advisor be suitable in relation to a client's investment objectives, risk tolerance and other personal circumstances.

Supervision

Refers to the MFDA's investigation of whether a supervisory failure may have contributed to situations where an Approved Person engaged in misconduct. Supervisory failures may include inadequacy in the procedures for supervision or in the actual supervision of others.

Theft

Refers to the taking of property, not rightfully in one's possession, for personal use and exploitation.

Transfer of Accounts

Refers to the transfer of an account without proper client consent or a delay in the transfer of the account.

Vulnerable Person

Refers to investors particularly at risk due to circumstances such as language barriers, limited literacy, disability issues, or very limited financial resources.

Unauthorized Trading

Refers to the practice of a Member or Approved Person making trades without the client's knowledge or approval.



RESOURCES

Further Information

The MFDA website has additional information including with respect to the following areas:

- [Opening an Investment Account](#)
- [Protecting Yourself from Fraud](#)
- [Guide to the Hearing Process](#)
- [Sanctioned Guidelines](#)
- Enforcement Hearings:
 - [Hearings Schedule](#)
 - [Current Cases](#)
 - [Completed Cases](#)
 - [Cases Under Review/Appeal](#)
- Hearing Procedures:
 - [Rules of Procedure](#)
 - [Forms](#)
- Related By-Law Sections (Sections 18-26)
- [Enforcement Statistics](#) contains additional information on case handling activity
- [For Seniors](#)
- [For Investors](#)

Other Resources

Ombudsman for Banking Services and Investments

Any action taken by the MFDA will not include an order that investors be compensated for any financial losses they may have suffered. Additionally, the MFDA is unable to assist clients with civil claims. Investors who wish to pursue financial compensation may wish to consult with the Ombudsman for Banking Services and Investments (www.obsi.ca or 1-888-451-4519) or a lawyer.

National Registration Search

In Canada, anyone trading securities or in the business of advising clients on such securities, including Approved Persons and Members, must be registered with the provincial or territorial securities regulator, unless an exemption applies. Check the National Registration Search to find out if an individual or firm is registered in your province or territory and what product and services a firm or individual can offer, or contact your provincial securities regulator.

Disciplined List

The Canadian Securities Administrators maintains a cross-jurisdictional [Disciplined List](#), which can be used to search for any disciplinary action taken against an individual or company by a provincial securities regulator or self-regulatory organization, including the MFDA.

How to File a Complaint

Information on how to file a complaint about a Member or Approved Person can be found at <https://mfda.ca/investors/how-to-make-a-complaint/>

Investors can complain electronically by:

 complaints@mfda.ca

 using the complaint form available on the website

 416-361-6332
(toll-free: 1-888-466-6332)



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

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