



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: Investors Group Financial Services Inc.

SETTLEMENT AGREEMENT

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, Investors Group Financial Services Inc. (“Investors Group”).

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 Parts IV and V 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 Parts IV and V 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 X or any civil or other proceedings which may be brought by any other person or agency, whether or not this Settlement Agreement is accepted by the Hearing Panel.

IV. AGREED FACTS

Registration History

6. The Respondent is a mutual fund dealer and Member of the MFDA and is registered under securities legislation in all Canadian provinces and territories. The Respondent has been a Member of the MFDA since February 8, 2002.

The Respondent Failed to Adequately Review DSC Trades by Two Elderly Clients Between May 2013 and July 2014

7. Between May 2013 and July 2014, the Respondent failed to adequately query the suitability of the recommendation and sale of mutual funds subject to deferred sales charges (“DSC”) to two elderly clients. In both instances, the clients died prior to the expiry of the applicable DSC schedule and the clients’ estates were subject to DSCs. As described below, subsequent to completing its investigation into these matters, the Respondent reimbursed the clients’ estates for all DSCs incurred.

Client MC

8. From January 1997 to December 31, 2014 when she died at age 93, client MC was a client of the Respondent. At all material times, client MC's investment accounts at the Respondent were serviced by Approved Person PL.

9. In April 2013, client MC sold her condominium for approximately \$410,402 (the "Condominium Sale Proceeds") and moved into a retirement residence. At the time of sale, the Condominium Sale Proceeds represented a significant portion of client MC's net worth.¹

10. On or about May 1, 2013, Approved Person PL submitted the following trades to the Respondent to invest \$380,000 of the Condominium Sale Proceeds in client MC's non-registered account:

- i. \$200,000 in the Investors Dividend Fund A (DSC);
- ii. \$140,000 in the Investors Premium Money Market Fund A (DSC);
- iii. \$25,000 in the Investors U.S. Large Cap Value Fund B (no load); and
- iv. \$15,000 in the Investors International Small Cap Fund B (no load).

11. Approved Person PL created and arranged for client MC to sign a document titled "Summary of Investors Group Sales Fees" (the "Fee Summary"), which informed client MC about DSCs and her options to purchase DSC or non-DSC funds. The Fee Summary had not been approved for use by the Respondent, and further had not been entirely completed by client MC.

12. Approved Person PL submitted the trades using a Limited Trading Authorization.

13. At the time of the trades, the Respondent's Know-Your-Client ("KYC") information for client MC, last updated on October 4, 2011, stated that she:

- i. was 92 years old;
- ii. had an investment time horizon of 10+ years;
- iii. had a high-risk tolerance; and
- iv. had an investment objective to "leave an estate".

¹ On April 30, 2013, in addition to the Condominium Sales Proceeds, client MC held mutual investments totaling approximately \$47,700.

14. On May 2, 2013, the Respondent identified and flagged the trades during its tier 1 review because the International Small Cap Fund B (no load) was a high-risk fund. As part of the Respondent's tier 2 review, the compliance department contacted Approved Person PL's branch manager, BM, and asked him to assess the suitability of the trades taking into account the DSC schedules and client MC's age, and to confirm whether client MC was aware of the DSCs.

15. On May 9, 2013, Approved Person PL switched the \$140,000 invested in the Investors Premium Money Market Fund A (DSC) (as described in paragraph 10(b) above) to the Investors Real Property Fund A (DSC). The Investors Real Property Fund A was subject to the same 7 year DSC redemption schedule as the Investors Premium Money Market Fund A.

16. On July 22, 2013 (approximately 7 weeks after the Respondent's compliance department contacted BM about the trades), BM sent an email to the Respondent's compliance department stating:

I have reviewed the file and although the client appears to be a little old for the time frame indicated, [Approved Person PL] has indicated in his ... notes that the DSC's were discussed and the client has signed a "Summary of Investors Group Sales Fees"...

17. Following receipt of the July 22, 2013 email, the Respondent closed the matter without further action. In determining that the trades were suitable for client MC, the Respondent relied solely on BM's determination that the DSCs had been disclosed to client MC without assessing whether the DSC mutual funds were suitable given client MC's age.

18. In addition, the Respondent's compliance department failed to note that the Summary referenced in the July 22, 2013 e-mail was not approved by the Respondent. Had the compliance department reviewed the document, it would also have become aware that the Summary had not been entirely completed by client MC.

19. Approved Person PL earned \$12,920 in commission from the sale of the DSC mutual funds to client MC.

20. On December 31, 2014, client MC passed away (approximately 20 months after client MC had purchased DSC mutual funds).

21. In August 2015, the executor of client MC's estate submitted a complaint to the Respondent requesting that any DSCs triggered by the redemption of client MC's investments be waived on the basis that those investments were unsuitable and should never have been recommended.

22. In response to the complaint, upon completing its investigation, the Respondent reimbursed to client MC's estate all DSCs incurred on the redemption of MC's investments, which totalled \$14,493.72. The Respondent did so on June 6, 2016, when all of the DSC investments held by client MC's estate with the Respondent were redeemed.

23. In June 2016, the Respondent completed a targeted Compliance Business Review ("CBR") of Approved Person PL's book of business involving clients age 70 and older. The CBR focused on unusual trading, commission activity, and fund concentration between January 1, 2013 and December 31, 2015. The CBR detected no further unusual activity or issues concerning DSC investments.

Client FD

24. From 1990 to January 25, 2016 when she passed away at age 97, client FD was a client of the Respondent. At all material times, client FD's investment accounts at the Respondent were serviced by Approved Person SS.

25. In May 20, 2014, client FD sold her home for approximately \$483,866 (the "House Sale Proceeds") and moved into a retirement residence. At the time of sale, the House Sale Proceeds represented a significant portion of client FD's net worth.²

26. At that time, Approved Person SS submitted a trade to the Respondent to invest the House Sale Proceeds in the Investor Dividend Fund B (no load) in client FD's non-registered account.

27. On May 29, 2014, Approved Person SS updated client FD's KYC information. Client FD's KYC information stated that she:

- i. was 95 years old;
- ii. had an investment time horizon of 6-10 years;

² Client FD held additional investments totaling approximately \$250,000.

- iii. had a medium risk tolerance; and
- iv. had an investment objective to “leave an estate”.

28. On July 14, 2014, Approved Person SS switched \$498,511.57 in client FD’s non-registered account from Investors Dividend Fund B (no load) to Investors Dividend Fund A (DSC) which had a 7 year DSC schedule.

29. On July 15, 2014, Approved Person SS’s branch manager, JS, queried the trade and requested that Approved Person SS justify why client FD’s monies were moved into a DSC mutual fund.

30. On July 17, 2014, Approved Person SS responded in an e-mail as follows:

On April 1, 2014 [client FD] moved into a retirement home and subsequently sold her home. Initially all proceeds from the sale of the house were invested into her IG Non-Registered account Dividend Fund B. It was agreed at the time of the original move into the retirement home that it would be prudent to review her estate plans and in particular Power of Attorney and Health initiatives. Over the past few months I have met with [client FD] many times as well as with her and her lawyer. [client FD] does not have any direct surviving family members and has redirected the proceeds of her estate mainly to close friends. She now has an up to date Will and a more appropriate Power of Attorney, [client FD]’s motive to switch from B Funds to A is mainly to provide incentive for the heirs to remain clients of IG as well as acknowledging remuneration for myself and my staff.

31. On July 23, 2014, JS approved the trade at the tier 1 level. JS did not submit the email from Approved Person SS to the Respondent.

32. The Respondent states that a member of its compliance staff reviewed the trade at tier 2 but has no record of the details of any such review. The Respondent has no record of any queries or requests for information being submitted to JS or Approved Person SS in respect of the trade. The Respondent has no record of how a determination was made that the trade was suitable for client FD having regard to her age.

33. Approved Person SS earned \$18,043.44 in commission from the sale of the DSC mutual fund to client FD.

34. On January 25, 2016, client FD passed away (approximately 18 months after client FD had purchased the DSC mutual fund).

35. On April 16, 2016, client FD's investments were redeemed by her estate, which resulted in DSCs of \$24,380.39.

36. Subsequent to a review completed by the Respondent, the Respondent reimbursed client FD's estate for all DSCs incurred on the redemption of FD's investments.

37. The Respondent also required Approved Person SS to forfeit the commission he had earned from the trade.

38. In March 2017, the Respondent conducted a CBR of SS's book of business involving clients 60 years of age or older. The CBR focused on trades involving moving funds from no load series to DSC series funds. The CBR identified 96 trades with respect to 18 clients, which the Respondent viewed as unsuitable. The Respondent charged back all commissions paid to Approved Person SS on these trades and adjusted them to ensure the clients would not pay any DSCs.

39. The Respondent terminated Approved Person SS.

Additional Factors

40. The Respondent has fully cooperated with the MFDA's investigation of the issues that form the subject matter of this Settlement Agreement.

V. CURRENT PRACTICES

41. Since the events at issue, the Respondent has made significant changes to its policies concerning the sale of DSC mutual funds. In particular:

- i. From October 2015 to October 1, 2016, the Respondent's compliance department implemented enhanced monitoring and review of DSC purchases for clients aged 70 years and older. During this period, recommendations for DSC purchases for such clients required review and approval by the branch manager, with a secondary review and approval by a compliance specialist at the Respondent's head office.

The Respondent also updated its policies and procedures to indicate that DSC products are rarely suitable for clients age 70 and over due to the nature of the fee structure.

- ii. In 2016, the Respondent's compliance department enhanced its monitoring of DSC purchases for senior clients by verifying that clients had financial flexibility (i.e., ability to meet expected and unexpected cash flow needs) to purchase DSC funds and that no load funds were considered prior to the purchase. There was a requirement to present both no-load and DSC purchase options to clients with the pros and cons of each option explained.
- iii. Effective July 1, 2016, the Respondent announced that DSCs would be waived upon the death of an account holder (or upon the death of the last surviving owner for jointly held accounts) on units purchased after June 30, 2016. Any estate settlement transfers in kind from an account with the Respondent to a beneficiary's account(s) with the Respondent will have DSCs waived on units purchased after June 30, 2016.
- iv. Effective October 1, 2016, the Respondent stopped accepting DSC purchases for clients age 65 and older.
- v. Effective January 1, 2017, the Respondent discontinued purchases of its proprietary mutual funds that would trigger DSCs on redemption for all clients.

42. To improve trade oversight, commencing August 2018, the Respondent began to transition to branch managers that are fully dedicated to supervisory duties, who will not service or solicit client business nor will they be compensated based on the business conducted within the branch. This transition was completed by January 31, 2019.

43. In addition to changes to its policies concerning the sale of DSC mutual funds, the Respondent has introduced a number of other significant initiatives as part of its client-focused approach. For example:

- i. In 2015, the Respondent created the Investors Group Senior and Vulnerable Client Working Group, with a mandate in part to develop and implement policies and

procedures, education and training, resources and tools dedicated to the Respondent's engagement with senior and vulnerable clients.

- ii. In 2017, the Respondent publicly committed to raise the proficiency of all Approved Persons by requiring they achieve the Certified Financial Planner (CFP) designation or be enrolled in the CFP program by December 2020. In recent years, Investors Group has also committed significant resources to expand the training and on-going delivery of educational programs to Approved Persons, through online tools and resources, conferences and National Education Day broadcasts.
- iii. In November 2018, it was announced that to increase greater fee transparency, unbundled pricing would be rolled out to all clients over the course of 2019. Under the new model, clients will pay an advisory fee to the Respondent for its services as opposed to dealer compensation being bundled as part of mutual fund management fees.

44. The Respondent has voluntarily implemented a procedure to supervise and address material DSC redemptions by senior clients.

VI. CONTRAVENTIONS

45. The Respondent admits that, from May 2013 to July 2014, it failed to adequately query the suitability of the recommendation and sale of mutual funds subject to deferred sales charges to two elderly clients, contrary to MFDA Rules 2.2.1 and 2.5.1 and MFDA Policy No. 2.

VII. TERMS OF SETTLEMENT

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

- i. the Respondent shall pay a fine in the amount of \$150,000, pursuant to section 24.1.2(b) of MFDA By-law No. 1;
- ii. the Respondent shall pay costs in the amount of \$15,000, pursuant to section 24.2 of MFDA By-Law No. 1; and
- iii. a senior officer of the Respondent will attend in person on the date set for the Settlement Hearing.

VIII. STAFF COMMITMENT

47. 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 facts set out in Part IV and the contraventions described in Part VI of this Settlement Agreement, subject to the provisions of Part X below. However, nothing in this Settlement Agreement precludes Staff from investigating and initiating or continuing proceedings against any other individual in respect of any facts set out in Part IV and the contraventions described in Part VI of this Settlement Agreement. In addition, nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any facts and contraventions that are not set out in Parts IV and VI of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the facts and contraventions set out in Parts IV and VI, whether known or unknown at the time of settlement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations.

IX. PROCEDURE FOR APPROVAL OF SETTLEMENT

48. 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. MFDA Settlement Hearings are typically held in the absence of the public pursuant to section 20.5 of MFDA By-law No. 1 and Rule 15.2(2) of the MFDA Rules of Procedure. If the Hearing Panel accepts the Settlement Agreement, then the proceeding will become open to the public and a copy of the decision of the Hearing Panel and the Settlement Agreement will be made available at www.mfda.ca.

49. 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.

50. 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.

51. 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.

52. If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondent fails to honour any of the Terms of Settlement set out herein, Staff reserves the right to bring proceedings under section 24.3 of the By-laws of the MFDA against the Respondent or 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

53. 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.

54. 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

55. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 1st day of May, 2019.

“Mark Kinzel”

Investors Group Financial Services Inc.

Per: Mark Kinzel

Position: Executive Vice-President

“Shaun Devlin”

Shaun Devlin

Staff of the MFDA

Per: Shaun Devlin

Senior Vice-President,

Member Regulation – Enforcement

Schedule “A”

Order

File No. 201927



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: Investors Group Financial Services Inc.

ORDER

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 Investors Group Financial Services 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, from May 2013 to July 2014, the Respondent failed to adequately query the suitability of the recommendation and sale of mutual funds subject to deferred sales charges to two elderly clients, contrary to MFDA Rules 2.2.1 and 2.5.1 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 \$150,000 pursuant to section 24.1.2(b) of MFDA By-law No. 1;
2. The Respondent shall pay costs in the amount of \$15,000 pursuant to section 24.2 of MFDA By-Law No. 1; and
3. If at any time a non-party to this proceeding, with the exception of the bodies set out in section 23 of MFDA By-law No. 1, requests production of or access to exhibits in this proceeding that contain personal information as defined by the MFDA Privacy Policy, then the MFDA Corporate Secretary shall not provide copies of or access to the requested exhibits to the non-party without first redacting from them any and all 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]

DM 679071