

Chapter 13

SROs, Marketplaces and Clearing Agencies

13.1 SROs

13.1.1 OSC Staff Notice of Approval – MFDA Investor Protection Corporation (“MFDA IPC”) – Amendments to Agreement between MFDA IPC and the Mutual Fund Dealers Association of Canada (“MFDA”) (“The Services Agreement”)

OSC STAFF NOTICE OF COMMISSION APPROVAL

MFDA Investor Protection Corporation

Amendments to the Services Agreement between the MFDA IPC and the MFDA

The Ontario Securities Commission approved the amendments to the Services Agreement between the MFDA IPC and the MFDA. The Alberta Securities Commission, the Financial and Consumer Affairs Authority of Saskatchewan (previously, the Saskatchewan Financial Services Commission), Nova Scotia Securities Commission have approved the amendments, and the British Columbia Securities Commission did not object to the MFDA IPC’s amendments.

Summary of Amendments

The MFDA IPC was developed by and has a close governance, regulatory and operating relationship with the MFDA. To minimize the need for separate MFDA IPC resources, the MFDA provide certain services to the MFDA IPC pursuant to the Services Agreement. The amendments to the Services Agreement are generally housekeeping in nature and intended to ensure the terms of the Services Agreement reflect the current operating relationship between the MFDA IPC and the MFDA.

A blacklined version of the Services Agreement is attached as Attachment A.

SERVICES AGREEMENT made as of the 1st day of July, 2005,
Revised October 3, 2012

BETWEEN:

MUTUAL FUND DEALERS ASSOCIATION OF CANADA
("MFDA")

- and -

MFDA INVESTOR PROTECTION CORPORATION
("IPC")

RECITALS:

1. MFDA is recognized as a self-regulatory organization pursuant to the securities legislation of certain provinces and territories of Canada for the purpose of regulating the conduct and business of its members ("Members").
2. Pursuant to the securities legislation of certain provinces and territories of Canada, Members are required to participate in an approved compensation fund or contingency trust fund.
3. IPC has applied and received approval as a compensation fund under the securities legislation of certain provinces and territories of Canada.
4. IPC ~~intends to establish~~ has established a fund (the "Fund") to satisfy certain claims for compensation by clients of insolvent Members.
5. MFDA is a self-regulatory organization representing mutual fund dealers and, as such, has knowledge and experience relevant to the development and operations of IPC.
6. MFDA and IPC wish to set forth their respective rights and obligations with respect to certain aspects of IPC including, without limitation, its governance, funding and operations as well as the prudential regulation of Members.
7. IPC wishes to retain, and MFDA has agreed to provide, the services of MFDA and its staff in connection with ~~(a) the initial establishment of the IPC and the Fund, and (b) support of~~ certain ongoing functions and operations of IPC.

FOR GOOD CONSIDERATION the parties agree as follows:

1. Governance
 - (a) *Letters Patent and By-laws.* MFDA acknowledges the terms and content of the Letters Patent dated November 14, 2002 and By-laws of IPC, both in effect as of the date of this Agreement. IPC shall not take or permit any act to dissolve or wind up IPC or to amend or delete any of the terms of the Letters Patent or By-laws of IPC as they exist from time to time without providing MFDA not less than 60 days prior written notice of such act occurring or as proposed to occur.
 - (b) *Industry Directors.* MFDA shall nominate the Industry Directors of IPC as required pursuant to its By-laws within a reasonable time of the occurrence of any vacancy in the office of an Industry Director. Such nomination shall be made in accordance with the requirements of the By-laws of IPC. MFDA shall do all such things as may be reasonably necessary or desirable to cause Industry Directors nominated by it to act, attend meetings, vote and perform the duties of directors of IPC in accordance with the constitution of IPC and applicable law. No Industry Director shall be removed, or proposed to be removed, from office by the members of IPC without IPC providing MFDA not less than 15 days' notice prior to the date such removal occurs or is proposed to occur.
2. Regulation of Members
 - (a) *Prudential Rules.* MFDA has enacted Rules relating to the business and financial strength of its Members in order to minimize the risk of insolvency of such Members and losses to their customers. Such Rules relate to the capital, insurance, business structures, financial reporting, client confirmations and statements and related subjects. MFDA shall not make any new such Rule, amend or delete an existing Rule, propose to make,

amend or delete a Rule, or suspend or grant exemptions therefrom, without providing IPC not less than 60 days (or such shorter period as IPC may agree) prior written notice of such act occurring or proposed to occur, and permitting IPC an opportunity to comment on a new amended or deleted Rule. IPC may whenever it considers necessary or desirable advise MFDA, its Board of Directors and Members, or committees thereof, in order to enhance protection by IPC of customers of Members and to reduce risk of loss to be covered by IPC. Any question or issue as to whether a Rule or proposed Rule falls within the requirements of this Section 2(a) shall be, if necessary, determined in accordance with Section 11 of this Agreement.

- (b) *Member Reviews.* IPC shall be entitled to review the business and operations of Members, or designated groups of Members, where the Board of IPC has concerns about the integrity of the IPC fund or possible claims, provided that IPC will usually be entitled to rely on MFDA to conduct reviews of MFDA Members for the purposes of IPC. In any such case IPC may request MFDA staff or independent, professional advisers on its behalf, to perform such reviews at the expense of IPC according to the criteria of IPC and to report to both IPC and MFDA. MFDA shall provide such prompt and reasonable access and assistance as may be appropriate in the circumstances. In conducting such reviews IPC and MFDA will make efforts to minimize duplication between functions of MFDA staff in their normal operations and the requirements of IPC.
- (c) *Information Sharing.* MFDA shall provide to IPC all information and documentation referred to in Schedule A.

3. Fund Size and Funding

- (a) *Fund Size.* IPC and MFDA have acknowledged that the initial size (being a dollar amount) of the funds available to IPC to provide customer protection ~~shall~~was to be not less than \$30 million, to consist of (i) cash either assessed from Members or contributed by the MFDA (or liquid investments into which such cash has been invested), and (ii) availability under a line of credit obtained from one or more financial institutions. IPC and MFDA further acknowledge that on September 30, 2010, MFDA and IPC agreed to raise the fund size to \$50 million in cash (or investments made in accordance with IPC's investment policy) reserves. ~~IPC shall review together not less frequently than annually (according to the date of approval of IPC as a customer compensation plan) whether the amount of the fund is appropriate or should be adjusted in any manner. If IPC and MFDA agreed~~determines that adjustments to the amount of the fund should be effected on any basis (including over time), ~~they and, after consultation, the MFDA agrees in accordance with the by-laws and recognition order, the MFDA~~ will each do all such acts and things as may be necessary or desirable to effect the changes required.
- (b) *Line of Credit.* IPC and MFDA acknowledge the terms and conditions of the line of credit arranged by IPC with Canadian Imperial Bank of Commerce ("CIBC") pursuant to a commitment letter dated December 24, 2004 (the "LOC") including the guarantee of MFDA. that IPC may from time to time arrange a line of credit with a bank or financial institution ("Bank") upon such terms and conditions as are agreed to by IPC and MFDA, as guarantor. MFDA agrees to make such assessments of its Members as are needed to permit IPC to satisfy its obligations to CIBCBank in accordance with the terms of the LOC. IPC and MFDA agree that the terms of the LOC, or any replacement or amended credit facility in favour of IPC, shall not be entered into, amended or terminated or amended without the consent of each of them. IPC and MFDA will each use its commercially reasonable efforts and do all acts and things as may be necessary to permit each of them to fulfil its respective obligations under the LOC, provided that the other is not in default of its obligations thereunder.
- (c) *Assessments.* IPC and MFDA acknowledge that the initial basis of assessments of MFDA Members will be at an annual rate sufficient to generate \$5 million per year on a calendar year basis. ~~Such assessments shall commence in July 2005 on approval of IPC as a customer compensation plan, and shall continue for a period of six years in equal quarterly instalments or until the size of the fund exceeds \$30 million or such other amount as may be agreed in accordance with Section 3(a). The first such instalment shall be payable September 30, 2005. However, the~~an agreed upon annual amount. The Board of IPC is to review annually the foregoing basis of assessments to determine that it continues to be appropriate in accordance with relevant factors such as fund size targets, economic and mutual fund industry conditions, interest rates and fund loss experience. IPC shall consult with the MFDA with respect to any changes to the foregoing assessment basis. If IPC and the MFDA are unable to agree on a proposed change, the matter will be referred to the appropriate members of the Canadian Securities Administrators to assist in resolving the matter. Notwithstanding the foregoing, IPC shall be entitled to require MFDA to impose or prescribe assessments in an amount and manner in order to (i) permit IPC to meet its obligations to its lenders or to satisfy claims incurred from eligible customers of MFDA Members that exceed the assets available to IPC; and (ii) replenish the fund to its then target size. MFDA shall be responsible for collecting from its Members and remitting to IPC all assessments made in accordance with the terms of this Agreement.

- (d) *MFDA Contribution.* MFDA and IPC acknowledge that MFDA has contributed to IPC the sum of \$2,500,000 as part of the funds to be held by IPC absolutely as its own property and without requirement to repay all or any part thereof, or interest or accretion thereon, to MFDA.
- (e) *MFDA Advance.* MFDA and IPC acknowledge that MFDA has contributed to IPC the sum of approximately \$875,000 as a loan to assist in the establishment and initial operation of IPC. ~~To the extent such indebtedness~~ The MFDA acknowledges that IPC has not been repaid as of the date hereof, IPC shall repay all such indebtedness as soon as possible in a manner consistent with its obligations to CIBC as referred to in section 3(a) but in no event later than December 31, 2005. ~~repaid this amount.~~

4. Coverage

- (a) *Policy.* IPC has adopted and published a coverage policy describing the customer losses in respect of which IPC will provide protection. ~~A copy of the policy current as of the date of this Agreement is attached as Schedule D.~~ No change shall be made in respect of IPC's coverage as described in such policy without the prior consent of the MFDA.
- (b) *Advertising.* MFDA, with the agreement of IPC, proposes to adopt Rule 2.7.4 and a related Policy describing the basis on which Members may and shall hold out to their customers the protection provided by IPC. No change in such Rule 2.7.4 or such Policy shall be made without the prior consent of IPC. It is acknowledged that the obligation of MFDA to adopt Rule 2.7.4 and the related Policy is subject to a transition period of at least two years from the date of commencement of coverage.

5. Services. MFDA shall provide to IPC the ~~following services~~ related to IPC's administration and operations as described on Schedule B (the "Services"), subject to the terms and conditions of this Agreement:.

- ~~(a) — Administration and Operations. Services related to IPC's administration and operations as described on Schedule B.~~
- ~~(b) — Budgets, Work Plans, Etc. Where appropriate and if agreed upon by both parties, MFDA (as part of the Services) and IPC will co-operate in developing work plans, budgets and other planning and control measures to enhance efficiency and satisfaction of any regulatory, audit or corporate reporting obligations of IPC.~~

6. Fees and Expenses. MFDA shall be entitled to be paid for providing the Services in the amounts and on the terms and conditions as follows:

- (a) *Fees.* Fees for Services shall be according to Schedule C. In addition, the parties may agree from time to time that any particular function or project requiring the Services of MFDA may be charged on any other basis including a fixed amount. It is acknowledged that certain expenditures made by either of MFDA or IPC in connection with its own operations or the Fund may be of benefit to the other of them, and savings and efficiencies for both may be attained if the benefit, experience or work product of such expenditures is shared. Such expenditures may include professional fees, consulting studies, government or industry submissions and internal projects. In such cases and where considered appropriate by a party, such party may advise the other party of the opportunity to share the benefit and the cost of the relevant expenditures and work product or experience, and the parties shall in good faith assess the suggestion and determine whether, and on what terms and conditions, such sharing may occur provided that any cost sharing shall only be effective against a party if contained in a written document executed by an Officer of such party.
- (b) *Disbursements.* MFDA shall be entitled to be reimbursed for its reasonable out-of-pocket costs and expenses incurred in providing the Services.
- (c) *Payment.* MFDA shall be paid the amounts referred to in Sections 6(a) and (b) quarterly within 20 days of receipt of invoices submitted to IPC by MFDA outlining in reasonable detail the Services provided in respect of the relevant month.

7. Personnel

- (a) *MFDA Staff.* The Services of MFDA shall be provided under the supervision of the Vice-President, Compliance of MFDA by such persons employed or retained by it and as advised and satisfactory to IPC from time to time.

- (b) *Other Consultants.* In addition to MFDA staff referred to in Section 7(a), IPC and/or MFDA may agree to retain such other consultants or advisors on terms and conditions satisfactory to them to assist in the provision of the Services.
- (c) *IPC.* IPC will make available such of its own staff and advisors (including the persons referred to in Section 8) for consultation, information and instructions as may be necessary to permit MFDA to perform the Services as required hereunder.
8. Direction and Reporting. MFDA may accept instructions or direction in respect of the Services from, and may report to, the Chair of the IPC Board of Directors (the "Board"), the President of the IPC or any other person designated by the Board. In addition to the reports specified in Schedule A, MFDA shall (as part of the Services) endeavour to provide to IPC in a timely manner such reports, updates and other information as IPC may reasonably require in connection with the Services and the Fund.
9. Term. The term of this Agreement shall be indefinite and subject to termination by (i) agreement of the parties or (ii) by either of MFDA or IPC on not less than 180 days notice if permitted, required or directed by any securities regulatory authority having jurisdiction over MFDA or IPC. Except as otherwise agreed, on such termination, the respective rights and obligations hereunder of the parties (other than (i) any obligations incurred prior to the effective time of termination; (ii) the responsibility of MFDA for collecting from its Members and remitting to IPC assessments made by IPC; and (iii) Sections 10, 11 and 12) shall cease to have force or effect.
10. Protection
- (a) *Indemnity.* Subject to Section 10(b), each party (the "Indemnifying Party") shall indemnify and hold the other party, its directors, officers, employees and agents (any such person being referred to as an "Indemnified Party"), harmless, from and against any and all claims, actions, liabilities, costs, expenses and damages of whatsoever nature (collectively, "Claims") arising, directly or indirectly, out of or in connection with this Agreement, including, without limitation, all fees and expenses incurred in connection with the defense of any such Claim or defending against any such liability or allegation thereof and, further without limiting the foregoing, including any and all amounts which may be paid by any such Indemnified Party in respect of the compromise or settlement of any of the foregoing, provided such compromise or settlement has been consented to in writing by the Indemnifying Party. In the event that any Claim arises in respect of which the Indemnifying Party may be required to indemnify an Indemnified Party according to the foregoing, the Indemnified Party shall promptly give notice to the Indemnifying Party of such Claim with sufficient particulars for the Indemnifying Party to assess the matter. The Indemnifying Party may, at its election, by notifying the Indemnified Party within 15 days of the Indemnifying Party's receipt of such notice, take carriage of the defense of the Claim for and in the name of the Indemnified Party and may select counsel satisfactory to the Indemnified Party, acting reasonably, to defend the same. The Indemnified Party shall have the right, at its own expense, to have counsel of its choice also take part in such defense, provided that if the Indemnifying Party shall not provide notice to the Indemnified Party within the 15 day period referred to in the previous sentence then the Indemnified Party shall have the right to have counsel of its choice and at the Indemnifying Party's expense defend the Claim.
- (b) *Exception.* The Indemnifying Party shall have no liability to any Indemnified Party pursuant to Section 10(a) of this Agreement if the Claim of the Indemnified Party arises as a result of the bad faith, wilful misconduct, gross negligence or breach of any material term of this Agreement by the Indemnified Party.
- (c) *Indemnification Rights Held in Trust.* To the extent an Indemnified Party referred to in subsection 10(a) is not a party to this Agreement, MFDA (in the case of an Indemnified Party who is a director, officer, employee or agent of MFDA) or IPC (in the case of an Indemnified Party who is a director, officer, employee or agent of IPC) shall hold the indemnification rights in trust for such Indemnified Party.
11. Disputes
- (a) *Disputes.* In the event that a dispute arises between the parties with respect to the interpretation of this Agreement, the rights and obligations of the parties hereunder or any aspect of the implementation of the Agreement, the dispute may be referred by either party to the respective Chairs of IPC and MFDA for review and resolution, if possible. If the Chairs are unable to resolve the matter between them within 60 days of the date the matter has been referred to them, either party may by notice require that within 20 days of the delivery of the notice the Chairs refer the matter to a judge or retired judge of a Superior Court of the Province of Ontario for review, mediation and/or decision, as the case may be, as provided in paragraphs (b) or (c) below within 180 days, provided that if the Chairs fail to jointly make such reference, either party may do so. Each party shall co-operate fully in facilitating the review and resolution of disputes contemplated by this

Section 11 and each party shall bear its own expenses with the reasonable fees and expenses of the judge or retired judge being borne equally by IPC and MFDA.

- (b) *Mandatory Binding Decision.* Any dispute described in Section 11(a) where the value, amount or financial consequences to either party does not exceed \$500,000 (excluding costs, interest or penalties, if any) and which is referred to a judge or retired judge as provided, shall be determined by the final and binding decision of the judge.
- (c) *Arbitration or Other Redress.* Any dispute referred to in Section 11(a) which is not dealt with under Section 11(b) shall be determined by arbitration if both the IPC and MFDA agree in writing. The procedures for such arbitration shall be as set forth in Schedule ED. If both parties do not agree in writing to submit the dispute to arbitration as aforesaid then either party shall be entitled to seek relief from any court of competent jurisdiction.

12. Confidentiality. All information obtained by either party with respect to each other or their respective directors, officers, employees, agents or members shall be treated as confidential and shall not be disclosed or used by either of them, except to the extent necessary in connection with the performance of their obligations under this Agreement or as is appropriate in resolving a dispute pursuant to Section 11 or as required by law.

13. General

- (a) *Notices.* All notices, consents, waivers, requests, agreements and other communications provided for hereunder must, unless otherwise stated herein, be in writing and telecopied or delivered by courier, as to each party, at its address set forth below or at such other address designated by such party by means of a written notice to the other party. Any such notice or other communication shall be deemed to have been given, made and received on the day of delivery if delivered by courier, and on the first business day after telecopying if telecopied and if notice or communication is given in any other form, it shall not be effective until actually received.

To MFDA: 121 King Street West
Suite 1000
Toronto, Ontario
M5H 3T9
Attention: President and CEO
Telecopy: (416) 943-1218

with a copy to: _____ Lang Michener
(which shall _____ BCE Place, Suite 2500
not constitute _____ 181 Bay Street
notice) _____ Toronto, Ontario
_____ M5J 2T7
_____ Attention: _____ Philippe Tardif
_____ Telecopy: _____ (416) 365-1719

To IPC: 121 King Street West
Suite 1000
Toronto, Ontario
M5H 3T9
Attention: Chair
Telecopy: (416) 943-1218

with a copy to: _____ Borden Ladner Gervais LLP
(which shall _____ Scotia Plaza
not constitute _____ 40 King Street West
notice) _____ Toronto, Ontario
_____ M5H 3Y4
_____ Attention: _____ Robert P. Hutchison
_____ Telecopy: _____ (416) 361-7082

- (b) *Assignment and Binding Effect.* This Agreement shall be binding upon and enure to the benefit of each of the parties and their respective successors and permitted assigns. No party may assign its rights hereunder without the prior written consent of the other party.

- (c) *Amendments.* No amendment or waiver of any provision of this Agreement nor consent to any departure in the terms hereof shall in any event be effective in whole or in part unless in writing and signed by both parties.
- (d) *Schedules.* The Schedules to this Agreement may be amended from time to time by agreement between the parties to change the description or the terms of the Services to be provided.
- (e) *No Waiver, Remedies.* No failure on the part of either party to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other rights. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.
- (f) *Headings.* The article and section headings used in this Agreement have been inserted for convenience of reference only and in no way affect the interpretation hereof.
- (g) *Interpretation.* Words importing the singular include the plural and vice versa, and words importing gender include all genders.
- (h) *Governing Law.* This Agreement shall be construed in accordance with, and governed by, the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- (i) *Entire Agreement.* This Agreement (including the Schedules) contains the entire agreement between the parties relative to the subject matter hereof and supercedes all prior and contemporaneous agreements, commitments, understandings, negotiations and discussions, whether oral or written. There are no warranties, express or implied, representations or other agreements between the parties in connection with the subject matter hereof except as specifically set forth herein.

[signature page follows]

EXECUTED AND DELIVERED as of the date set out at the beginning of this Agreement.

**MUTUAL FUND DEALERS ASSOCIATION
OF CANADA**

By: _____

By: _____

**MFDA INVESTOR PROTECTION
CORPORATION**

By: _____

By: _____

SCHEDULE A

**INFORMATION SHARING
(Section 2(c))**

MFDA will provide to IPC the information noted below within the periods indicated.

1. Upon Occurrence

Upon written notification by the MFDA to any of the Canadian Securities Administrators ("CSA"), MFDA shall provide the following (in writing):

- Details of Members' significant capital deficiency or circumstances where staff is concerned with the solvency of the Member
- Details of Members' suspension
- Details of the imposition by the MFDA of restrictions on a Member's registration pursuant to Rule 3.4.3
- Any other documents required to be submitted by the MFDA to any of the CSA (i) under the terms of sections 7(c), (d) and (e) of Schedule A to the recognition order dated February 6, 2001 of the Ontario Securities Commission in respect of the MFDA and corresponding orders of other Canadian Securities Administrators, as amended from time to time, as such terms relate to the IPC, or (ii) on behalf of the IPC under the terms of the approval order of the Ontario Securities Commission dated May 3, 2005.

2. Quarterly Reports

Once per three month period (and at least ~~48 hours~~ 5 business days prior to a scheduled quarterly IPC board meeting), MFDA shall provide written reports in respect of the following:

- Status of compliance examinations for each category of MFDA Member, including benchmark data
- Number of Members with capital deficiencies, dollar value of deficiencies and status
- Number of Members in early warning by type and status
- Membership information including:
 - Number of Members
 - Number of salespersons
 - total revenue of Members
 - total capital of Members
 - total RAC (Risk Adjustment Capital)
 - total AUA (Assets under Administration)
- any enforcement case for which a Notice of Hearing has been issued where MFDA staff will be seeking suspension or termination of membership
- Late filing statistics (for financial filings)

3. Upon Receipt

If and when received or prepared by the MFDA, the following will be provided to IPC:

- CSA Oversight Reports and MFDA responses of the financial compliance function

- MFDA Quarterly Operations Reports
- Any proposed significant change to the financial examination process proposed by staff
- 60 day advance notice of Policy initiatives to the following Rules (referred to as "Prudential Rules"):
 - Capital
 - Insurance
 - Segregation
 - Financial filings
 - Early Warning
 - Audit and Auditor Requirements
 - MFDA Financial Questionnaire and Report
 - Frequency and content of account statements
 - Trade Confirmations
 - Business Structures
 - New Account Approval

SCHEDULE B

**ADMINISTRATION AND OPERATIONS
(Section 5(a))**

The Services to be provided to the IPC by MFDA contemplated by paragraph 5(a) of the Agreement dated as of the 1st day of July, 2005 shall include those Services enumerated below and such other Services as IPC and MFDA may agree in writing are related to the administration and operations of IPC. All such Services which contemplate the taking of certain actions in respect of third parties shall be done by the MFDA as agent of IPC.

1. Board Meetings

- For regular meetings and occasional special meetings, prepare the agenda in consultation with the Chair, handle the logistics and prepare and circulate the minutes.
- For committee meetings, make the meeting arrangements, prepare background papers if required and draft the minutes.

2. Insolvencies

- ~~• Determine how best to protect customer assets in consultation with the Board. The Board shall make the final decision regarding any steps to petition a Member into bankruptcy.~~
- Engage Assist IPC as necessary to engage a Receiver/Trustee as required and coordinate work necessary to determine customer losses.
- ~~• Perform staff investigation and evaluation of customer eligibility for Plan protection for determination by IPC staff or directors.~~
- Provide other assistance with respect to the claims process as required by IPC.

3. Administration

- Perform assessments calculations and monitor fund growth to provide information to the Board for decisions regarding assessment models.
- ~~• Invest fund assets, or engage an investment advisor on behalf of the Fund, as directed by IPC.~~
- Record all cash receipts, payments to suppliers, directors and others by (or on behalf of) the IPC.
- ~~• Negotiate on behalf of IPC banking services, including a line of credit if appropriate.~~
- Perform bank reconciliations and portfolio reconciliations (if applicable).
- Perform reporting requirements of IPC in connection with its line of credit and other banking and financial affairs.
- ~~• Prepare monthly plan financial statements and a quarterly report to the investment committee.~~
- ~~• Report to the CSA, on behalf of IPC, as required by the CSA.~~
- Assist in the preparation of documents required for the audit of IPC's financial statements.
- Accept and process Plan sign and brochure orders from Members and handle problems with brochure orders.

4. IPC Web Site

- Maintain www site. This site will contain items such as annual reports (in html and Adobe Acrobat for downloading), the IPC Plan brochure and policy statements, frequently asked questions (FAQs) and answers, updated list of Directors, a list of Members (updated monthly).
- Receive queries from the public through this web site.
- Provide information as to how IPC can be contacted in person by telephone or attendance at an MFDA office or in writing.

SCHEDULE C

FEEs
(Section 6(a))

In consideration for providing the Services contemplated by this Agreement and except as otherwise provided for herein or agreed by the parties, IPC shall pay to MFDA a fee of \$5,000 per month, payable at the end of each calendar quarter. Such fee shall be reviewed by the parties from time to time and shall be adjusted to reflect the costs incurred by MFDA under this Agreement as experience in the operations of IPC is developed.

SCHEDULE D

**POLICY
(Section 4(a))**

POLICY

The coverage by MFDA IPC of losses suffered by customers of insolvent MFDA members is in the discretion of the Board of Directors of MFDA IPC. Subject to the ability of the Board of Directors to determine otherwise, the exercise of such discretion is intended to be in accordance with the terms of this Policy.

DEFINITION OF CUSTOMERS

A customer considered eligible for protection by MFDA IPC shall be any customer of an MFDA member having an approved securities account used solely for the purpose of transacting securities business directly with the insolvent member on account of securities, other property (such as segregated insurance funds) and cash balances received, acquired, borrowed or held for the customer. An approved securities account is any account opened in accordance with the rules governing new accounts prescribed by or under the MFDA or any Canadian securities legislation. Such accounts are to be fully disclosed in the records of the insolvent member and are normally evidenced by receipts, contracts and statements that have been issued by the member.

MFDA maintains on its website at www.mfda.ca a list of members whose eligible customers are entitled to protection subject to the terms of this Policy.

MFDA is not recognized as a self-regulatory organization in the Province of Quebec and assessments for MFDA 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 MFDA IPC except as the Board of Directors of MFDA IPC shall otherwise in its discretion determine.

A customer shall be an individual, a corporation, a partnership, an unincorporated syndicate, an unincorporated organization, a trust, a trustee, an executor, an administrator or other legal representative but shall 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) someone 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; and
- viii) a person who caused or materially contributed to the insolvency of a member.

Persons who deal with members through accounts used for business financing purposes are not eligible for coverage in respect of such accounts. The Directors may also determine that persons are not customers entitled to protection if they do not deal at arm's length with (i) an insolvent member or (ii) with a person who is excluded as a customer.

Securities, cash, segregated funds or other 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, are not eligible for MFDA IPC coverage.

LIMITS OF COVERAGE

The determination of the amount of financial loss suffered by a customer of an insolvent member for the purposes of payment by MFDA IPC and the maximum limits of such payments shall be in accordance with this Policy. In addition, the Board of Directors 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 the Directors to determine protection by MFDA IPC. The Directors 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.

In the case of any question or dispute as to the amount of the financial loss incurred by a customer for the purposes of payment by MFDA IPC, and the maximum amounts to be paid to a customer, the interpretation of the Board of Directors of this Policy shall be final and conclusive. The Board of Directors reserves the right in the appropriate circumstances to authorize any payments in a manner other than as prescribed in this Policy.

Determination of Customer Losses

The financial loss of a customer in respect of which the Directors may authorize payment by MFDA IPC shall be determined as at the applicable date (as fixed by the Board of Directors) 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. The Board of Directors may in its discretion reduce the amount of the financial loss of a customer for the purposes of authorizing payments by the amount of compensation the customer may receive from any other source. To be eligible for coverage, the claim by any customer must be filed with MFDA IPC or the trustee in bankruptcy or similar official of the insolvent member within 180 days of the date of insolvency.

The date at which the financial loss of a customer is determined shall be fixed by the Directors as the date of bankruptcy of the member, if applicable, or the date on which, in the opinion of the Directors, the member became insolvent. The amount of securities delivered to a customer in satisfaction of a claim shall be the amount of securities to which the customer was entitled as at the date for determining financial loss without regard to subsequent market fluctuations. In lieu of satisfying a claim by the delivery of securities, cash in an amount equal to the value of the securities 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 securities as at the date of payment.

Maximum Limits of Payments

The Board of Directors may authorize payments to be made to each customer considered eligible for protection by MFDA IPC who has suffered financial loss to a maximum amount of \$1,000,000 attributable to securities, cash and other property held by the member with respect to each of (i) the aggregate of all the customer's General Accounts and (ii) each type of aggregated Separate Account of the customer, as such General and Separate Accounts are determined by the Board of Directors. The amount of a customer's claim for cash will be reduced to the extent that the customer is entitled to deposit insurance in respect of all or any of the cash held for an account or to compensation in respect of other securities or property.

GENERAL ACCOUNTS

Each account of a customer considered eligible for protection by MFDA IPC 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 therein, 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. 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 MFDA 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.~~

SCHEDULE DE

**TERMS OF ARBITRATION
(Section 11(c))**

1. The place of arbitration shall be Toronto, Ontario.
2. The governing law, both substantive and procedural, shall be that of the Province of Ontario.
3. The arbitration shall be conducted under the rules and procedures in the *Arbitration Act, 1991* (Ontario).
4. The arbitration shall be conducted by a single arbitrator who is experienced in resolution of commercial disputes but has no financial or personal interest in the business affairs of either MFDA, IPC or a member of MFDA or any affiliate or associate of such member. The arbitrator shall be appointed jointly by agreement of MFDA and IPC. If MFDA and IPC cannot agree on a suitable arbitrator within 30 days, then either party may apply to the court to appoint an arbitrator pursuant to the *Arbitration Act, 1991* (Ontario).
5. The arbitrator shall have the authority to award any remedy or relief that a court could order or grant in accordance with this Agreement, including, without limitation the imposition of sanctions for abuse or frustration of the arbitration process.
6. The award of the arbitrator shall be in writing, stating the reasons for the award. The award may include an award of costs, including reasonable legal fees and disbursements and fees and expenses of the arbitrator. Any court having jurisdiction thereof or having jurisdiction over the relevant Party or its assets may enter judgment on the award.
7. The arbitration award shall be final and binding on both MFDA and IPC and there shall be no rights of appeal other than on an issue of law.
8. These procedures shall be the sole and exclusive procedures for the resolution of Disputes between MFDA and IPC in accordance with section 11(c) of the Agreement. MFDA and IPC agree to continue to act in good faith and to comply with all of their respective obligations under this Agreement notwithstanding any dispute or any pending arbitration hereunder.
9. The arbitration shall be kept confidential and the existence of the proceeding and any element of it (including but not limited to any pleadings, briefs or other documents submitted and exchanged, and testimony or other oral submission and any awards) shall not be disclosed beyond the arbitrator, the parties, their counsel and any person necessary to the conduct of the proceeding, including any expert consulted with regard to any dispute, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise.