

# INVESTOR ADVISORY PANEL

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## **RE: Proposed Amendments to MFDA By-law No.1 - Sections 3.3 (Election and Term), 3.6.1 (Governance Committee), 4.7 (Quorum)**

The Investor Advisory Panel (IAP) welcomes this opportunity to provide the Mutual Fund Dealers Association of Canada (MFDA) with our comments on the Proposed Amendments to MFDA By-Law No. 1. The IAP is an initiative by the Ontario Securities Commission to enable investor concerns and voices to be represented in its rule development and policymaking process. Our mandate is to solicit and represent the views of investors on securities-related policy and rule making initiatives.

We commend the MFDA for undertaking this review designed to ensure that its corporate governance structure continues to be “relevant and appropriate”. Considering the review’s scope, execution and recommendations, however, we believe the MFDA could and should have taken greater advantage of this opportunity to undertake more meaningful reform. Specifically, we were concerned that the scope of the review was limited only to making the MFDA’s governance practices consistent with those of other SROs; and that the proposed changes did not address the inherent asymmetry of stakeholder representation in the MFDA’s formal governance structure.

In today’s context of heightened accountability and transparency, public expectations of and requisite standards for good governance have increased dramatically. The limited scope and ambitions of the MFDA review do not reflect today’s imperatives with respect to good governance. For example, there is a large and growing public appetite for improved board quality that considers board composition, diversity, and turnover as key elements. Similarly, there is a growing push for richer insight into director skill relevancy and more attention to board succession processes, including the use of automatic refreshment mechanisms

(retirement ages and tenure limits). The fact that few of these very timely and relevant governance issues were addressed in the Proposed Amendments is unfortunate, if not problematic. Furthermore, in our view the recommendation to extend the term of board members from 6 to 8 years is at odds with prevailing governance trends. The argument presented to justify it does not seem very compelling.

By the very nature of its mandate being focused on the mutual fund business, the MFDA must address the inherent potential for its actions to appear to favour the interests of the industry over those of the investing public. To avoid this potential perception of bias, the MFDA has a responsibility to be particularly scrupulous in ensuring the integrity and fairness of its governance structures and practices. This is a high standard and it is unfortunate that the recent review did not raise the bar by either refining the qualification standards for a public director or extending the existing one-year cooling off period for public director candidates who previously were involved with the industry.

We also note the absence of any initiative to incorporate an explicit channel for investors to participate more formally in the MFDA policy-making process. But on this matter, we wish to state that we do not believe it is best for board seats to be *expressly* designated for advocates representing specific interest groups since that tends to result in directors playing set factional 'roles' instead of engaging in balanced deliberation for the benefit of all stakeholders. However, given the fact that the MFDA board is partly composed of industry nominees, we believe it would be a wise practice for the MFDA to ensure its board always includes some public directors possessing deep understanding of retail investors' experiences and concerns – to bring that perspective to the board's collective point of view when reaching decisions, without creating an expectation that individual directors are there to represent and advocate for specific, competing stakeholder interests.

In addition, we commend the examples offered by the OSC and OBSI, and strongly encourage the MFDA to establish an investor advisory panel or committee that would be available to provide the board with real-time informed advice and feedback on investor-related matters.

We appreciate this opportunity to comment on the Proposed Amendments. Please let us know if you require any further information or clarification from us.

Yours truly,



Neil Gross  
Chair, Investor Advisory Panel