

### 13.1.8 Housekeeping Amendments to MFDA Rule 4 – Insurance

**MUTUAL FUND DEALERS ASSOCIATION  
OF CANADA**

**HOUSEKEEPING AMENDMENTS TO MFDA RULE 4  
(INSURANCE)**

#### **Current Rule**

Rule 4 sets out the minimum requirements that MFDA Members must observe regarding bonding and insurance. These include mandatory provisions for financial institution bonds, required coverage amounts and termination provisions.

Rule 4.2 requires the Member to have a rider attached to its financial institution bond (“FIB”) policy that requires the insurer to notify the MFDA in the event the bond is terminated under certain conditions.

Rule 4.7(b) addresses cases where the Member is covered by a FIB policy that also offers coverage to related companies. In such cases, Members are required to ensure that the individual or aggregate limits under the policy are not affected by claims made by other companies covered under the policy, except where the companies are subsidiaries of the Member and their financial results are consolidated with those of the Member.

#### **Reasons for Amendments**

Amendments to Rule 4.2 are being proposed to clarify the existing requirements and ensure consistency with the amended Investment Dealers Association of Canada (“IDA”) Rule.

Amendments to Rule 4.7(b) are being proposed to provide greater flexibility to Members with respect to global financial institution bonds. In situations where a holding company of a Member does not carry on other business or own other investments other than in the Member, MFDA staff takes the position that there is no significant additional exposure in extending the Member’s individual or aggregate limits under the policy to include its holding company. The proposed amendment to the global FIB Rule is consistent with amendments to the IDA Rules.

#### **Description of Amendments**

The following amendments to Rule 4 are proposed:

- Rule 4.2 will be amended to reflect the format of other MFDA Rules and more clearly convey the intent of the section.
- Rule 4.3 will be amended to update a cross reference to Rule 4.2.
- Rule 4.7 will be amended to allow for coverage limits under a global financial institution bond to be affected by claims of a holding company of the Member, provided that the holding company does not carry on any business or own any investments other than its interest in the Member.

The proposed amendments are housekeeping in nature in that they are intended to clarify existing requirements and the current language of the Rule.

#### **Effective Date**

The amended Rules will be effective on a date to be subsequently determined by the MFDA.

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

INSURANCE (Rule 4)

On May 22, 2008, the Board of Directors of the Mutual Fund Dealers Association of Canada made the following housekeeping amendments to MFDA Rule 4:

**4.2 NOTICE OF TERMINATION**

Each Financial Institution Bond maintained by a Member shall contain a rider containing provisions to the following effect:

- ~~requiring~~ (i) ~~The underwriter shall~~ notify the Corporation at least 30 days prior to the termination or cancellation of the Bond, except in the event of termination of the Bond due to:
- (~~a~~A) the expiration of the Bond period specified;
  - (~~b~~B) cancellation of the Bond as a result of the receipt of written notice from the insured of its desire to cancel the Bond;
  - (~~c~~C) ~~upon~~ the taking over of the insured by a receiver or other liquidator, or by provincial, federal or state officials; or
  - (~~d~~D) ~~upon~~ taking over of the insured by another institution or entity.
- (ii) In the event of termination of the Bond as an entirety in accordance with clauses (i)(B), (i)(C) or (i)(D), the underwriter shall, upon becoming aware of such termination, give immediate written notice of the termination to the Corporation. Such notice shall not impair or delay the effectiveness of the termination.

**4.3 TERMINATION OR CANCELLATION**

In the event of the take-over of a Member by another institution or entity as described in Rule 4.2(i)(~~d~~D) the Member shall ensure that there is bond coverage which provides a period of twelve months from the date of such take-over within which to discover the losses, if any, sustained by the Member prior to the effective date of such take-over and the Member shall pay, or cause to be paid, any applicable additional premium.

**4.7 GLOBAL FINANCIAL INSTITUTION BONDS**

Where the insurance maintained by a Member in respect of any of the requirements under this Rule 4 names as the insured or benefits the Member, together with any other person or group of persons, whether within Canada or elsewhere, the following must apply:

- (a) the Member shall have the right to claim directly against the insurer in respect of losses, and any payment or satisfaction of such losses shall be made directly to the Member; and
- (b) the individual or aggregate limits under the policy may only be affected by claims made by or on behalf of
  - (i) the Member, or
  - (ii) any of the Member's subsidiaries whose financial results are consolidated with those of the Member, or
  - (iii) a holding company of the Member provided that the holding company does not carry on any business or own any investments other than its interest in the Member,

without regard to the claims, experience or any other factor referable to any other person.