September 29, 2020

Delivered By Email: bkonyu@mfda.ca

Brett Konyu
Director, Member Education & Membership Services
Mutual Fund Dealers Association of Canada
121 King St. W., Suite 1000
Toronto, ON M5H 3T9

Dear Mr. Konyu:

RE: MFDA Consulation Paper on Account Transfers

The Investment Funds Institute of Canada (**IFIC**) appreciates the opportunity to provide feedback on the Mutual Fund Dealers Association of Canada (**MFDA**) Consultation Paper on Account Transfers (**Consultation Paper**).

IFIC is the voice of Canada's investment funds industry. IFIC brings together 150 organizations, including fund managers, distributors and industry service organizations to foster a strong, stable investment sector where investors can realize their financial goals. IFIC works collaboratively with industry representatives, regulators, governments and investor advocates to help cultivate a system that is fair, secure and efficient for all stakeholders.

IFIC operates on a governance framework that gathers member input through working committees. The recommendations of the working committees are submitted to the IFIC Board or board-level committee for direction and approval. This process results in a submission that reflects the input and direction of IFIC members.

Since our membership represents a variety of stakeholders, there may be perspectives unique to each stakeholder that are not part of our submission, but may be addressed by our members through other avenues, including their own submissions.

Executive Summary

IFIC commends the MFDA for taking a leadership position in considering the issues related to account transfers. Account transfer delays have been a long-standing concern for IFIC members.

Our submission will focus on 3 key themes:

1. Regulatory Consistency and Coordination
2. Electronic Processing and Automation
3. Paper Based Processes

Responses to the questions posed in the Consultation Paper are provided in Appendix A.

Regulatory Consistency and Coordination

While the MFDA has undertaken to consult on matters related to account transfers, it is important to note that this issue cannot be completely resolved in isolation. As noted in the Consultation Paper, the complexity of an account transfer depends on where and how the assets being transferred are held. As such, resolving this long-standing issue is not something that can be done by the MFDA alone.

Account transfers often involve a variety of industry participants that may or may not be subject to rules or guidance issued by the MFDA. As such, any regulatory response should be coordinated across regulatory bodies and look to align with existing transfer rules, where reasonable and appropriate.

Based upon the concerns noted in Appendix A, IFIC suggests that the MFDA work with members of the Joint Forum of Financial Market Regulators and the Financial Consumer Agency of Canada to establish a transfer framework that can be broadly applied across industry participants. A coordinated solution will help address the current fragmented approach that has resulted in friction and uncertainty between industry participants.

Although regulatory consistency and coordination is aspirational, changes to MFDA rules should not be delayed while evaluating if an industry-wide account transfer framework can be established.

Electronic Processing and Automation

IFIC members appreciate the potential benefits that can be realized from electronic processing and automation. Technology platforms, such as Fundserv or the Account Transfer Online Notification (**ATON**) service, can help facilitate greater efficiency, effectiveness, transparency and accountability. Paper-based processes lead to delays and errors that can contribute to a negative investor experience. As an industry, it is clear that we should continue to look for ways to leverage electronic solutions to better serve investors.

However, it is important to acknowledge that technology solutions can be costly and that they need to be integrated into existing dealer infrastructure. As such, any decision to adopt a technology solution for account transfers, and the related selection and implementation schedule for the technology solution, should be left to the discretion of the dealer.

The business operations of mutual fund dealers can vary widely and may be highly integrated with other industry participants. Requiring a specific technology solution or timeline to adopt an automated transfer processing service may be unduly burdensome for some dealers and may negatively impact their continued operation due to financial or operational constraints.

Rather than mandating a particular technology solution, IFIC recommends that the MFDA implement rules that require members to adhere to transfer timeframes similar to those contemplated in National Instrument 81-102 *Investment Funds* and IIROC Dealer Member Rule 2300[1]. Based on those timeframes, dealers will need to consider if, and when, a technology solution is required within the context of their business operations.

Paper-Based Processes

Evolving consumer preferences and issues related to the global pandemic are driving rapid changes in electronic commerce. The investment funds industry is responding to these challenges by working to provide solutions that both address consumer preferences and facilitate investor interactions that comply with social distancing measures.

Ensuring continued business operations in the face of a global pandemic has provided an opportunity to critically examine long-standing procedures and documentation to identify areas that could be streamlined. While the MFDA has been supportive of paperless initiatives, there continues to be some areas that would benefit from improved regulatory clarity.

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[1] IIROC Dealer Member Rule 2300 will become IIROC Rule 4800 Part B as at December 30, 2021

One area that would benefit from such clarity is the exchange of documents where transfer instructions are routed electronically through an established platform such as Fundserv or ATON. Today, IIROC Dealer Member Rule 2300 allows the delivering dealer[2] to rely upon electronic instructions received from the receiving dealer[3] and indemnifies the delivering dealer from claims, losses, damages, liabilities or expenses suffered by them arising as a result of reliance on such communication that is unauthorized, inaccurate or incomplete. A comparable rule should be adopted by the MFDA to provide the same level of clarity and protection for mutual fund dealers. Similarly, the Canadian Securities Administrators (**CSA**) should, at a minimum, consider issuing guidance confirming the ability of fund managers to rely upon electronic communications received from dealers, including transfer instructions.

Given the prevalence of accounts held at fund managers in client name, it is important that the MFDA and the CSA establish a coordinated regulatory response to paperless initiatives to ensure all stakeholders have regulatory clarity on what is acceptable and what is not. As such, IFIC recommends that the MFDA continue to work with the CSA to ensure processes that aim to support a paperless environment are done so cooperatively.

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IFIC appreciates the MFDA taking the initiative to facilitate an open dialogue among various stakeholders in regard to account transfers.

We would be pleased to provide further information or answer any questions you may have. Please feel free to contact me by email at kvickers@ific.ca or by phone 416-309-2324.

Yours sincerely,

THE INVESTMENT FUNDS INSTITUTE OF CANADA

Kelly Vickers

By: Kelly Vickers
Senior Policy Advisor

[2] "Delivering Dealer" means in respect on an account transfer the dealer from which the account of the client is to be transferred.

[3] "Receiving Dealer" means in respect of an account transfer the dealer to which the account of the client is to be transferred.

Appendix A

Question 1

What specific issues have you faced in relation to account transfers? Please specify if the issues experienced relate to transfers with Members or non-Member financial intermediaries (e.g. mutual fund companies, trust companies, etc.).

Issues related to account transfers are experienced across a variety of industry participants and are not isolated to MFDA members. As such, it will be important for the MFDA to work with other regulatory bodies to consider solutions that could be broadly applied across industry participants.

The majority of issues in relation to account transfers involve the exchange of paper documentation. Transfers initiated by paper or fax result in more frequent errors and higher “Not in Good Order” (**NIGO**) rates. One IFIC member estimates that 45% of all paper-based transactions are NIGO. Transfers that require supplementary documentation, such as locked in accounts, special purpose savings accounts (RESPs, TFSAs or DPSPs), pensions and transfers due to marriage breakdown, are generally delayed while participants navigate complex documentation requirements.

In particular, pension transfers can take an exceptionally long period of time to complete. On top of complex documentation requirements, the commuted value of a pension is calculated infrequently, resulting in the potential for significant delays.

IFIC members have also indicated that there are delays that seem to be related to client retention efforts. One IFIC member estimates that efforts to retain a client after taking steps to transfer their account are unsuccessful approximately 99% of the time. As such, these types of practices that result in unnecessary delays should be stopped.

The following list of examples illustrate circumstances where a transfer has been unduly delayed:

- Multiple transfer rejects due to successive NIGO instead of all issues being identified and communicated at the onset of the rejection;
- Refusal to transfer the account until the delivering institution has spoken directly to the client to confirm the transfer;
- Requests for the client to come into the delivering institution physically to confirm the transfer;
- Requests for the client to provide specific types of transfer forms instead of accepting instructions in good order on equivalent forms;
- Requests for forms that don’t exist, such as a government-issued form to transfer non-registered accounts.

Lastly there are delays that are specifically related to account transfers facilitated by cheque. While issues related to cheque processing and production are not regulatory in nature, it is important to note there are challenges related to cheques. As highlighted through the current pandemic, cheques can be an expensive and inefficient way to facilitate an account transfer. Extended processing times can result in client assets being “out of the market” for several weeks. In an effort to address some of these concerns, industry participants are working together in various forums to establish more efficient processes.

Question 2

Have you identified specific types of account transfers that cause more challenges and/or do not occur in a timely manner (e.g., dependent on where and how the assets are held, account registration, type of product, electronic vs non-electronic processes)? Please provide details.

Account transfers in relation to client name accounts are often initiated through paper and fax requests and therefore frequently experience delays.

As noted above, accounts that require supplementary documentation also experience challenges. Examples of these types of transfers include registered savings plans (RESP, TFSA, RRSP), pension transfers to a locked-in retirement plan and transfers due to marriage breakdown.

Accounts transfers that are impacted by the jurisdiction of the plan, such as a pension transfer to a locked-in retirement plan, can be delayed due to jurisdiction mismatches.

Question 3

Are there areas in the account transfer process that should be standardized or automated (e.g., specific timeframes, electronic processing)? Please explain.

IFIC members do not believe that electronic transfer processing should be mandated or standardized. The MFDA membership is comprised of a broad range of dealers, some of which may have limited resources or operational challenges to consider before adopting electronic processing. As such, committing to an electronic solution must be done at the discretion of the dealer.

Rather than requiring a technology solution to process transfers, IFIC members support the standardization of specific timelines related to account transfers. Consideration should be given to the specific timeline requirements set out in National Instrument 81-102 *Investment Funds* and IIROC Dealer Member Rule 2300.

An effective account transfer framework should consider the following:

- Upon receipt of client instructions in good order, the receiving dealer shall act promptly to initiate an account transfer;
- Upon receipt of transfer instructions, the delivering dealer shall promptly review the instructions to determine if they are in good order;
- If the transfer instructions are in good order, the delivering dealer shall act upon the instructions within two clearing days after the date of receipt of the instructions;
- If the transfer instructions are not in good order, the delivering dealer shall notify the receiving dealer of all reasons the transfer is not in good order within two clearing days after the date of receipt of the instructions;
- A delivering dealer shall be able to rely upon electronic instructions received from the receiving dealer and is indemnified from claims, losses, damages, liabilities or expenses suffered as a result of reliance on such communication that is unauthorized, inaccurate or incomplete.

Question 4

Do you have suggestions on how regulators can improve the account transfer process? Please provide details.

Account transfers often involve a variety of industry participants. Any regulatory response to improve the account transfer process should seek to create a framework that can be applied across industry participants. We strongly encourage the MFDA to consult with members of the Joint Forum of Financial Market Regulators and the Financial Consumer Agency of Canada to determine if a coordinated framework can be established.

To help reduce jurisdiction mismatches, pension plan termination packages should explicitly state the federal or specific provincial or territorial jurisdiction of the pension plan.