

# Investor Forum

## Appendix B

### Working together: The 2007 Investor Forum



## Getting help with your investment complaint

- ▶ Robert Paddick, Senior Deputy Ombudsman, OBSI
- ▶ Alex Popovic, VP, Enforcement, IDA
- ▶ Shaun Devlin, VP, Enforcement, MFDA
- ▶ Joanna Fallone, Manager, Case Assessment, Enforcement, OSC

# Investor Forum      Where to start!

- ▶ Contact your advisor or firm
- ▶ Be clear about what went wrong and when
- ▶ State the outcome you expect
- ▶ If not satisfied with the response, ask about the firm's complaint process and follow the steps outlined

# Investor Forum      If that doesn't work...

- ▶ If you want money back: contact OBSI
- ▶ If you think an individual or firm has broken the rules: contact a regulator – IDA, MFDA, or OSC
- ▶ If both apply, contact OBSI and a regulator at the same time
- ▶ Not sure? – contact any of us and we will make sure you get to the right place

# OBSI Who We Are

- ▶ OBSI is a national, independent dispute resolution service for banking customers and retail investors
- ▶ We look at unresolved disputes between firms and clients: if we find a firm has acted unfairly, made an error or given you bad advice, we will recommend compensation
- ▶ OBSI covers more than 650 firms, including all member firms of the Investment Dealers (IDA) Association, the Mutual Fund Dealers Association (MFDA) and the Investment Funds Institute of Canada (IFIC)
- ▶ Our service is free to consumers

# OBSI    What We Do

- ▶ We consider the law, regulations, good industry practice and firm policies, but ultimately decide cases on the basis of fairness in the circumstance
- ▶ We work informally and confidentially to resolve disputes
- ▶ Major complaint areas are unsuitable investments, unauthorized transactions and DSC fees

# OBSI Recommendations

- ▶ OBSI can recommend compensation up to \$350,000
- ▶ In some cases, we may recommend a solution that doesn't involve money, such as an apology or a corrected credit rating
- ▶ Recommendations are not binding on firms or clients but we have an excellent track record of firms and clients accepting our recommendations
- ▶ OBSI will publish a firm's refusal to follow a recommendation

# OBSI    What you need to do

- ▶ Contact us as soon as possible after getting the final response from the firm, but no later than 6 months after
- ▶ It's best to send us your complaint in writing
- ▶ Explain what went wrong and when
- ▶ Where possible, explain the amount you are seeking and why
- ▶ Include copies of the letters you have sent to and received from the firm
- ▶ We will acknowledge receipt of your complaint usually within one business day



# OBSI Complaint Assessment

- ▶ We assess your complaint to determine if it is within our mandate
- ▶ If no, we will try refer you to an organization that can help you
- ▶ If yes, we will assign your file for review
- ▶ We may try to facilitate a settlement to resolve the dispute early

# OBSI Complaint Investigation Process

If we open an investigation, we:

- ▶ Contact you to explain the process
- ▶ Have you and the firm sign an agreement to allow us to investigate and obtain a copy of your file from the firm
- ▶ Interview you, your advisor, firm representatives, and third parties as necessary
- ▶ Conduct additional research; review and analyze the information collected
- ▶ Complete a detailed report for review by you and the firm

# OBSI Timely complaint handling

- ▶ We keep you updated during the review process
- ▶ Complex cases take longer to review
- ▶ Our target is to complete 80% of our files in 180 days and we are currently meeting this standard

# MFDA / IDA    Who We Are

- ▶ The Investment Dealers Association of Canada (IDA) is a national self-regulatory organization overseen by the Canadian securities commissions
- ▶ The Mutual Fund Dealers Association of Canada (MFDA) is the self-regulatory organization for mutual fund dealers

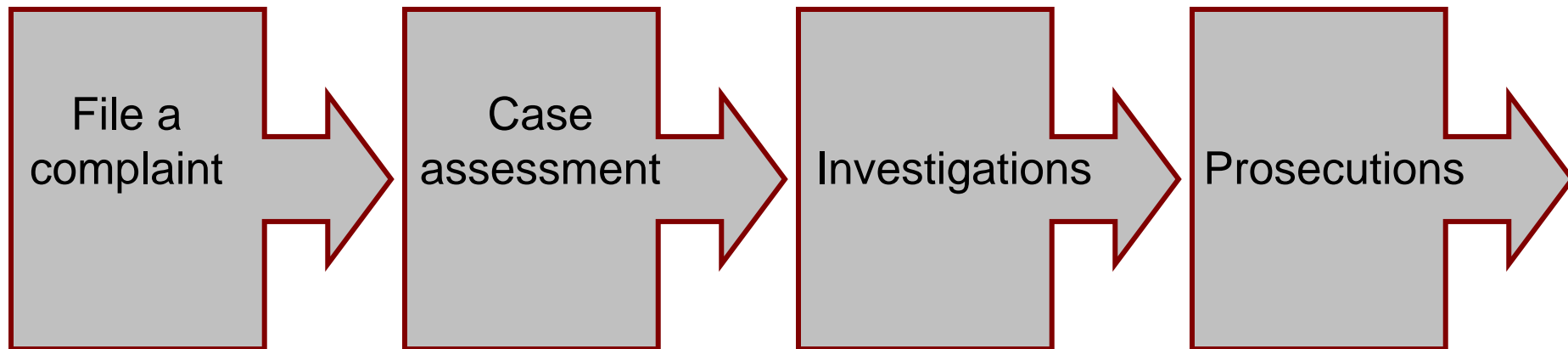
# MFDA / IDA    Who We Are

- ▶ The IDA regulates **214 investment dealers** and their **30,480 registered employees** in over 5,000 offices across the country
- ▶ The MFDA regulates **162 mutual fund dealers** and their **70,000 registered employees** across the country

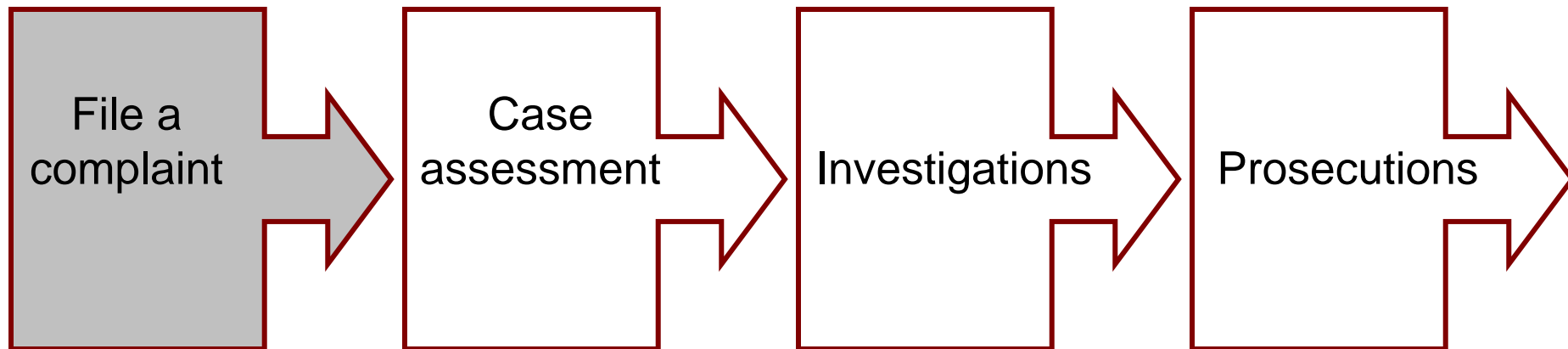
# MFDA / IDA Who We Are

- ▶ The IDA's mission is to protect investors, foster market integrity and enhance the efficiency and competitiveness of the Canadian capital markets
- ▶ The MFDA's mission is to enhance investor protection and strengthen public confidence in the Canadian mutual fund industry

# MFDA / IDA Making a complaint



# MFDA / IDA Making a complaint



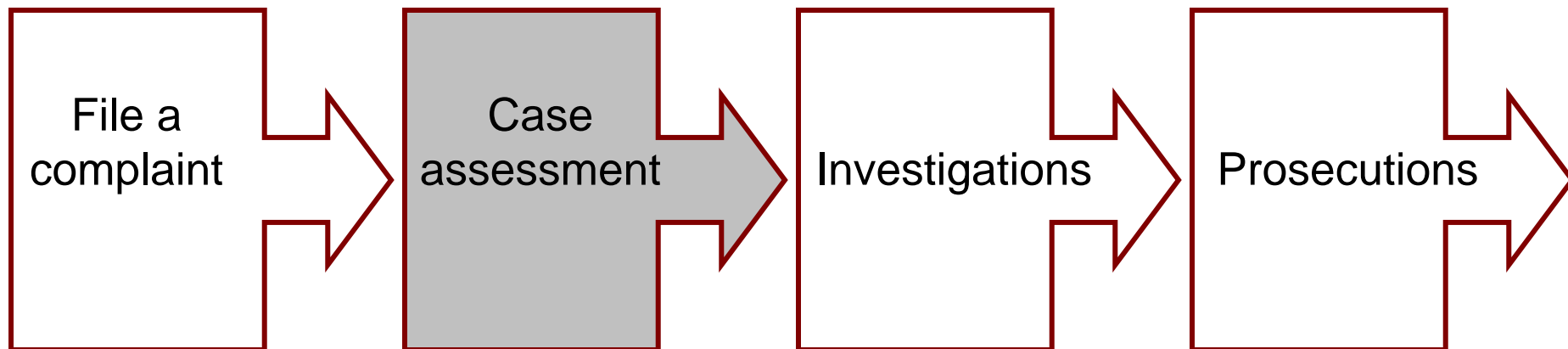


# MFDA / IDA Making a complaint

- ▶ Our case assessment officers can help you make your complaint to us or direct you to another appropriate body

*Remember - you can file a complaint with the IDA or MFDA and your firm **at the same time***

# MFDA / IDA Case assessment



# MFDA / IDA Case assessment

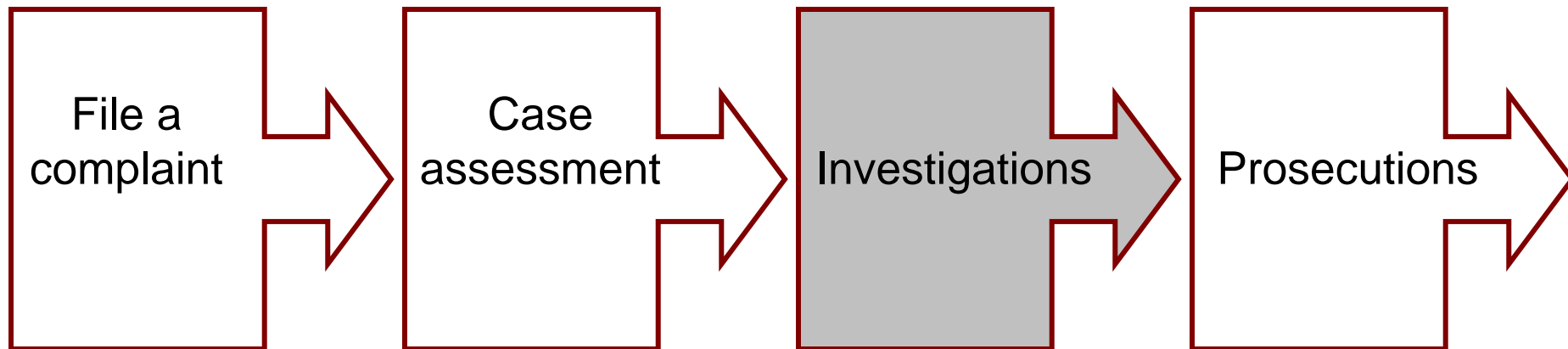
## **Keeping clients informed**

- ▶ The IDA sends an acknowledgement letter within 2 days of receipt of the complaint (MFDA – 5 days)
- ▶ The IDA contacts the complainant every 45 days until the assessment is completed (MFDA – 60 days)

## **Assessing the complaint**

- ▶ Does the complaint involve an IDA or MFDA firm or registrant?
- ▶ Is the complaint a regulatory matter (not service related)?
- ▶ Is there preliminary evidence of regulatory infraction?
- ▶ If yes to all, the complaint is sent to investigators

# MFDA / IDA Investigations



## Keeping clients informed

- ▶ The IDA sends a letter to the complainant notifying them that an investigation has begun within 5 business days (MFDA –1 day)
- ▶ The IDA contacts complainants 90 days after an investigation has been opened and every 60 days thereafter while the investigation is ongoing (MFDA – 90 days)

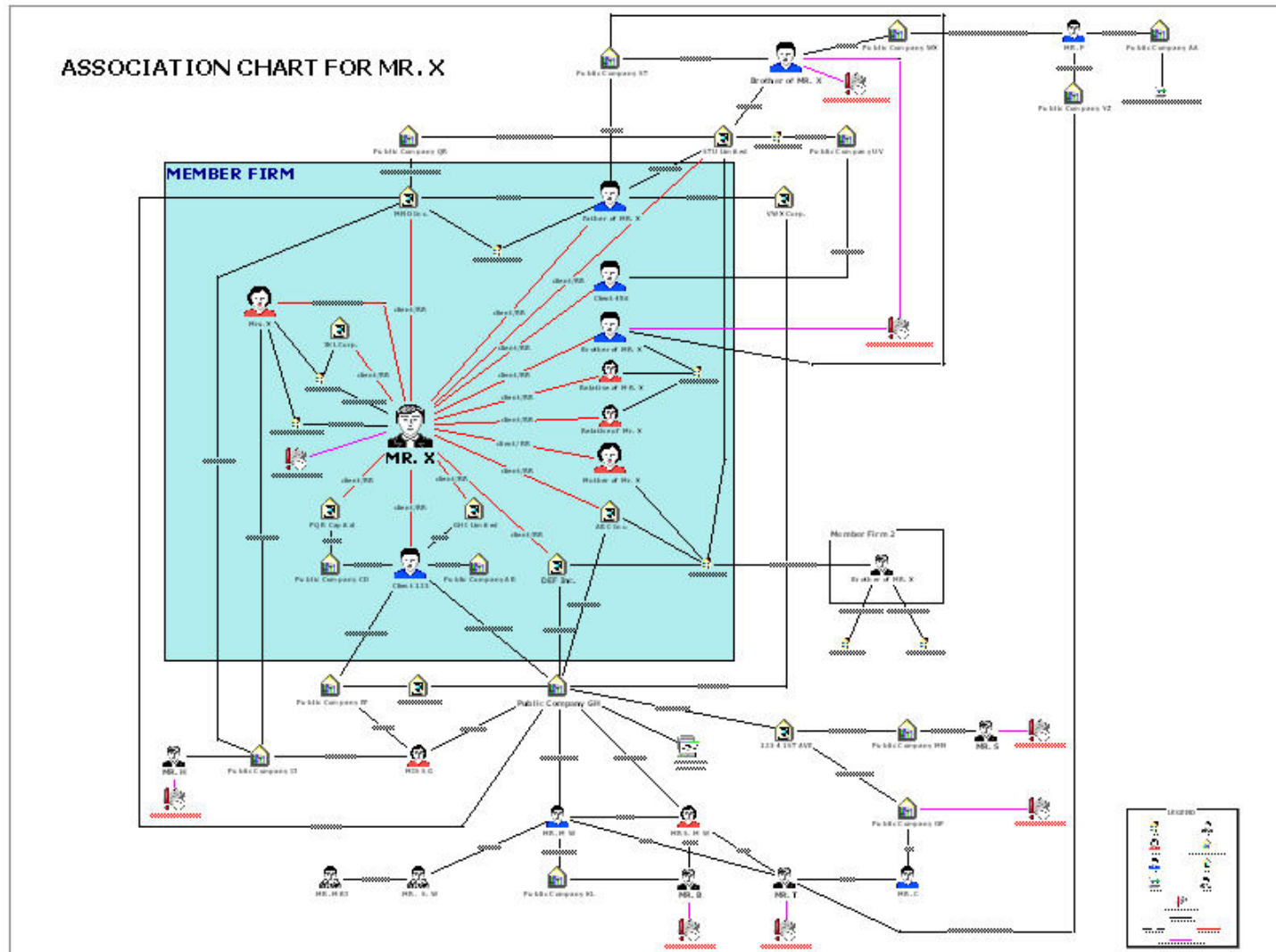
## Collecting evidence

- ▶ Investigators review the file, interview witnesses and videotape testimony, request documents etc.
- ▶ *Example:* we had a case with 40 bankers boxes containing 225,000 documents

## Using our resources

- ▶ Forensic accountants, lawyers, investigators, forensic handwriting examiners, custom designed software etc.

# MFDA / IDA Investigations



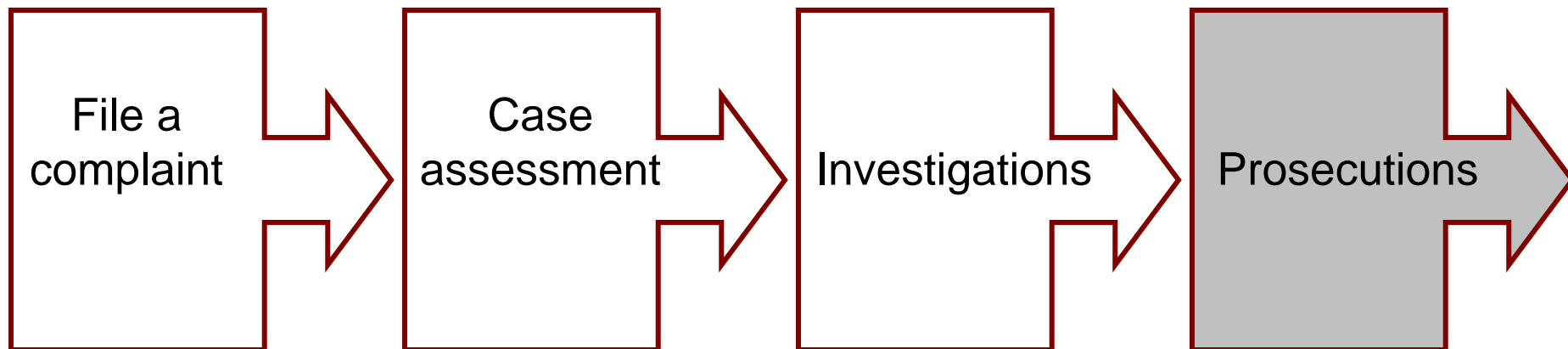
## Working with other regulators

- ▶ Complex investigations can involve multiple jurisdictions and be international in scope
- ▶ We work with: police, provincial securities commissions, FBI, SEC, US Dept. of Justice

*At any time, criminal activity (including fraud) is reported to the police or appropriate agency*



# MFDA / IDA Prosecutions



# MFDA / IDA Prosecutions

- ▶ If there is enough evidence to support that a violation of our by-laws has occurred, the matter goes to prosecutions

## **Keeping clients informed**

- ▶ Whenever we anticipate a hearing a Notice to Public (NTP) is posted on the website
- ▶ When we impose a discipline penalty on a firm or one of its registered employees, a media release, Settlement Agreement and Decision are posted on the our websites
- ▶ Discipline hearings are open to the public, except when a Hearing Panel Determines otherwise

## Firms:

- ▶ a written reprimand
- ▶ fines, up to a maximum of \$5 million per contravention
- ▶ suspension or termination of rights and privileges
- ▶ terms and conditions on continued Membership
- ▶ expulsion of membership
- ▶ any other fit remedy or penalty

## Registered employees:

- ▶ a written reprimand
- ▶ fines, up to a maximum of \$1 million per contravention (MFDA - \$5 million)
- ▶ suspension of approval and upon any conditions or terms
- ▶ terms and conditions or prohibitions on continued approval
- ▶ revocation of approval or permanent bar from approval with the IDA or MFDA
- ▶ any other fit remedy or penalty (often includes re-writing of licensing courses)

# IDA Timely complaint handling

## Case assessment

- ▶ IDA - to resolve **80%** of the closed files within **75 days** of receipt of the complaints. The 80% benchmark was surpassed at a national level for the past two years, and was in fact overachieved in 2006.

## Investigations

- ▶ IDA - to resolve **60%** of the closed files within **365 days** of receipt of the investigation. The 60% benchmark has been surpassed at a national level for the past four years.

# MFDA Timely complaint handling

## Case assessment

- ▶ MFDA - 80% of all cases to be closed or escalated to the Investigations group within 120 days of case The benchmark has been met or surpassed in every year since it was introduced.

## Investigations

- ▶ MFDA - 80% of all cases to be closed or escalated to the Litigation group within one year of escalation from Case Assessment. The benchmark has been surpassed since it was introduced.

## Prosecutions

- ▶ IDA - to resolve **60%** of the files within **six months** of receipt. The 60% benchmark has been met in the past three years, and surpassed in the past two years.
- ▶ MFDA - **80%** of files to be closed or the subject of a Notice of Hearing or Settlement Hearing within **ten months** of escalation from Investigations. The MFDA has surpassed this standard since it was introduced.

# OSC Who We Are

- ▶ The regulatory body responsible for overseeing the capital markets in Ontario
- ▶ Administers and enforces the provincial *Securities Act*, the provincial *Commodity Futures Act* and certain provisions of the provincial *Business Corporations Act*
- ▶ A self-funded Crown Corporation accountable to the Ontario legislature



# OSC Who We Regulate

- ▶ The OSC regulates various types of capital market participants including:
  - persons or companies advising or trading in securities or commodities futures (unless under an exemption)
  - public companies
  - investment funds
  - self-regulatory organizations
  - clearing agencies and marketplaces (including exchanges, alternative trading systems and quotation and trade reporting systems)

# OSC Inquiries & Contact Centre

- ▶ Provides information and educational resources
- ▶ Assists you in understanding the complaint process
- ▶ Acknowledges complaints and responds within 15 - 20 days of receipt
- ▶ Publishes Investor Alerts to help investors learn about the latest frauds and scams
- ▶ Maintains an online Tips form that allows investors to send tips anonymously

# OSC Enforcement

- ▶ Deals with matters involving the public interest
- ▶ Investigates matters which involve broad market issues and impact market integrity (e.g. insider trading, disclosure by public companies, accounting and auditing issues, takeover bid issues, illegal distributions)
- ▶ Investigates complaints against dealers and advisers that are not members of the IDA or MFDA
- ▶ Works cooperatively with other securities regulators, SROs and external agencies in Canada and abroad

# OSC Case Selection

## ► Approach

- Select cases posing greatest threat to market integrity
- Most effective use of resources

## ► Considerations

- Nature of conduct or activity
- Market participants involved
- Impact on investors and the market
- Urgency – ongoing activity
- Jurisdiction
- Limitation

# OSC Enforcement Process

## **Case Assessment and Surveillance:**

- ▶ Conduct initial analysis and assessment
- ▶ Refer matters involving serious breaches to Investigation

## **Investigation:**

- ▶ Conducts investigations
- ▶ Refers appropriate matters to Litigation

## **Litigation:**

- ▶ Negotiates settlements and conducts proceedings before the Commission and the Courts

# OSC Communication

## During an investigation:

- ▶ Enforcement may contact complainants through questionnaires, telephone or interviews
- ▶ Limits on communication e.g. privacy law, confidentiality restrictions imposed by the OSA, potential prejudice to the investigation and to parties under investigation, reveal market sensitive information
- ▶ **Exceptions**
  - investor protection outweighs non-disclosure concerns
  - conduct or issues substantially in the public realm
  - to correct the public record

## After an investigation:

- ▶ Public disclosure is made when proceedings are initiated

# OSC Timelines

- ▶ Challenges
  - complex and document intensive
  - specialized knowledge and forensic tools
  - multiple/offshore jurisdictions
  - legal obstacles
  
- ▶ 2006/07
  - Intake Units
    - average of 2 months to complete files
  
  - Investigation
    - average of 9.5 months to complete files

# OSC Litigation Options

- ▶ Settlement
- ▶ Commission hearings
- ▶ Court proceedings
- ▶ Other actions:
  - Interim Relief (e.g. Cease Trade Orders)
  - Court Applications (e.g. Freeze Directions)
  - Receivership Applications



## ► **Appendix**

OBSI / IDA / MFDA / OSC

- Contact Information
- Customer Complaint Forms Samples

# OBSI    Contact information

- ▶ Phone: 1-888-451-4519
- ▶ Fax : 1-888-422-2865
- ▶ Email: [ombudsman@obsi.ca](mailto:ombudsman@obsi.ca)
- ▶ Online complaint form: [www.obsi.ca](http://www.obsi.ca)
- ▶ Mail: OBSI, P.O. Box 896, Station Adelaide, Toronto, ON M5C 2K3

# MFDA / IDA    Contact Information / Complaint

If you have a complaint you can:

- ▶ call the toll-free Information/Complaint Line
  - 1-877-442-4322 (IDA)
  - 1-888-466-6332 (MFDA)
- ▶ email the IDA at [enforcement@ida.ca](mailto:enforcement@ida.ca) or the MFDA at [complaints@mfsa.ca](mailto:complaints@mfsa.ca)
- ▶ Email or fax a Customer Complaint Form
- ▶ Complete a Online Customer Complaint Form

# OSC Contact Information

- ▶ Phone: 1-877-785-1555  
416-593-8314
- ▶ Fax: 416-593-8122
- ▶ E-mail: [inquiries@osc.gov.on.ca](mailto:inquiries@osc.gov.on.ca)
- ▶ Online: [www.osc.gov.on.ca](http://www.osc.gov.on.ca)
- ▶ Mail: 20 Queen St., West, Box 55, 19<sup>th</sup> Floor  
Toronto, ON M5H 3S8  
Attention: Inquiries & Contact Centre

# OBSI Customer Complaint Form



## Complaint form

If you have any questions, visit our website at [www.obsi.ca](http://www.obsi.ca) to find our Frequently Asked Questions (FAQs) and other resources. You can also call us at 1-888-451-4519.

After filling out this form, either mail or fax it to us – with any supporting documents you want to include – at the address on page 3.

**If you are submitting a complaint on behalf of someone else, please complete this section with your contact details. Fill out the rest of the form with complaint and contact information for the person on whose behalf you are acting.**

Title: \_\_\_\_\_ \*First Name: \_\_\_\_\_ \*Last Name: \_\_\_\_\_  
 Street/PO Box/RR: \_\_\_\_\_  
 City: \_\_\_\_\_ Province: \_\_\_\_\_  
 Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_  
 \*Daytime Phone: \_\_\_\_\_ \*Evening Phone: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

Please describe your relationship to the person for whom you are making a complaint:

### Section A: Your contact information

**Person # 1** **Person # 2 (if applicable)**

Title: \_\_\_\_\_ Title: \_\_\_\_\_  
 \*First Name: \_\_\_\_\_ First Name: \_\_\_\_\_  
 \*Last Name: \_\_\_\_\_ Last Name: \_\_\_\_\_  
 \*Daytime Phone: \_\_\_\_\_ Daytime Phone: \_\_\_\_\_  
 \*Evening Phone: \_\_\_\_\_ Evening Phone: \_\_\_\_\_  
 Email Address: \_\_\_\_\_ Email Address: \_\_\_\_\_

*\*Required information*

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### Mailing Address

\*Street/PO Box/Route: \_\_\_\_\_  
 \*City: \_\_\_\_\_  
 \*Province/State: \_\_\_\_\_  
 \*Postal Code: \_\_\_\_\_  
 \*Country: \_\_\_\_\_

### Section B: Details of your complaint

You must complete all sections marked with an \*.

1. \*Type of account this complaint is about: ☐ Personal  
☐ Small Business  
☐ Both
2. \*Name(s) of the firm(s) your complaint is against: \_\_\_\_\_
3. \*Summary of your complaint:

*\*Required information*

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4. \*Have you completed the complaints resolution process at your firm? Yes ☐ No ☐

*If NO, please explain:*

5. \*Have you started legal proceedings? Yes ☐ No ☐

*If YES, please explain:*

### Additional information (not required)

6. How did you hear about OBSI? ☐ Link from another organization's Website  
☐ Your Firm  
☐ Friend/colleague  
☐ Search Engine (i.e. Google)  
☐ Other

If other, please provide details: \_\_\_\_\_

### Section C: Send us the complaint and supporting documents

Send this completed form to us at the address or fax number below. If you have completed the complaint resolution process at your firm, please include its final letter to you along with any other supporting documentation.

Mail: Ombudsman for Banking Services and Investments  
 PO Box 896, Station Adelaide  
 Toronto, ON M5C 2K3

Fax: 1-888-422-2865

*\*Required information*



# MFDA Customer Complaint Form



**Mutual Fund Dealers Association of Canada**  
**Enforcement Department**  
Association canadienne des courtiers de fonds mutuels  
121 King Street West, Suite 1000, Toronto, Ontario, M5H 3T9  
TEL: 416-361-6332 FAX: 416-361-9073 WEBSITE: [www.mfda.ca](http://www.mfda.ca)

Please use this form to file a complaint with the Enforcement Department of the Mutual Fund Dealers Association of Canada. While an individual may file a complaint on behalf of someone else, we require written authorization from that person in order to proceed with our review of the complaint. Receipt of your complaint will be acknowledged and if further information is required a Case Assessment Officer will contact you.

## 1. Your Information

Mr / Mrs / Ms / Miss / Dr. \_\_\_\_\_  
Please Print Name in Full

Address: \_\_\_\_\_

City: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Home Telephone: ( ) \_\_\_\_\_ Business Telephone: ( ) \_\_\_\_\_

Fax Number: ( ) \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

## 2. Account Information

Name of Dealer: \_\_\_\_\_

Name of Approved Person (Mutual Fund Salesperson): \_\_\_\_\_

Number of Accounts at Dealer: \_\_\_\_\_

If you are filing this complaint on behalf of another person please provide that person's name and address:  
\_\_\_\_\_

## 3. Complaint Summary

Please provide a brief, chronological summary of your complaint. Please attach any relevant documentation you may have. Further details may be requested from you at a later date.

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## 4. Contact with the Salesperson, Dealer Head Office and/or Other Regulator

*Knowing the history of your complaint can help us deal with your complaint more effectively.*

Have you contacted your approved person in writing regarding this complaint? ☐ Yes ☐ No

Have you contacted the dealer's head office in writing regarding this complaint? ☐ Yes ☐ No

Have you contacted your provincial Securities Commission? ☐ Yes ☐ No

## 5. Your Signature

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*If you are filing this complaint on behalf of another person, please have the person(s) sign below:*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Your complaint form can be mailed or faxed to the address and number below:**

Mutual Fund Dealers Association of Canada  
Enforcement Department, Case Assessment  
121 King Street West, Suite 1000  
Toronto, Ontario, M5H 3T9  
Fax: (416) 361-9073