



Now New Self-Regulatory Organization of Canada, a consolidation of IIROC and the MFDA

**IN THE MATTER OF
THE MUTUAL FUND DEALER RULESⁱ
and
Seongho (Steve) Park**

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. The New Self-Regulatory Organization of Canada, a consolidation of IIROC and the MFDA (the “Corporation”) will announce that it proposes to hold a hearing (the “Settlement Hearing”) to consider whether, pursuant to section 24.4 of MFDA By-law No. 1, a hearing panel (the “Hearing Panel”) should accept the settlement agreement (the “Settlement Agreement”) entered into between Staff of the Corporation (“Staff”) and Seongho (Steve) Park (the “Respondent”).

2. Staff and the Respondent, consent and agree to the terms of this Settlement Agreement.

3. Staff and the Respondent jointly recommend that the Hearing Panel accept the Settlement Agreement.

II. CONTRAVENTIONS

4. The Respondent admits to the following violations of the By-laws, Rules or Policies of the MFDA:

Between August 2016 and May 2017, the Respondent opened a new Tax-Free-Savings-Account and processed two mutual fund purchases in respect to a client who was a non-resident of Canada, which the Respondent was not permitted to do pursuant to the policies and procedures of the Member, and MFDA Rules 2.2.1¹, 2.1.1 and 1.1.2 (as it relates to MFDA Rule 2.5.1) (now Mutual Fund Dealer Rules 2.2.1(1), 2.1.1, 1.1.2 and 2.5.1).

III. TERMS OF SETTLEMENT

5. Staff and the Respondent agree and consent to the following terms of settlement:

- (a) the Respondent shall pay a fine of \$10,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.1.1(b) of MFDA By-law No. 1 (now Mutual Fund Dealer Rule 7.4.1.1(b));
- (b) the Respondent shall pay costs of \$5,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.2 of MFDA By-law No. 1 (now Mutual Fund Dealer Rule 7.4.2);
- (c) the Respondent shall in the future comply with MFDA Rules 2.2.1, 2.1.1 and 1.1.2 (as it relates to MFDA Rule 2.5.1) (now Mutual Fund Dealer Rules 2.2.1(1), 2.1.1, 1.1.2 and 2.5.1); and
- (d) the Respondent shall attend via videoconference on the date set for the Settlement Hearing.

6. Staff and the Respondent agree to the settlement on the basis of the facts set out in this Settlement Agreement herein and consent to the making of an Order in the form attached as Schedule "A".

¹ MFDA Rule 2.2.1 was amended multiple times including on December 13, 2005, December 3, 2010, December 3, 2011, February 22, 2013 and December 31, 2021. The conduct of the Respondent referred to in this Settlement agreement contravened all versions of Rule 2.2.1 that were in force prior to and after the amendments that were made.

IV. AGREED FACTS

7. From May 2016 to February 2019, the Respondent was registered in British Columbia as a dealing representative with BMO Investments Inc. (“BMOII”), a Member of the MFDA.

8. In February 2019, the Respondent resigned from BMOII and is currently registered with Royal Mutual Funds Inc., a Member of the MFDA.

9. At all material times, the Respondent conducted business in the North Vancouver, British Columbia area.

Misconduct

10. At all material times, the Member’s policies and procedures required its Approved Persons to use due diligence to learn the essential facts relative to each client and to each account accepted which is commonly referred to as Know-Your-Client (“KYC”) information .

11. At all material times, BMOII’s policies and procedures prohibited: (i) clients who did not reside in Canada from opening a new Tax Free Savings Account (“TFSA”); and (ii) clients who resided in the United States from opening new accounts or making any purchases or switches in their account, as follows:

A TFSA cannot be opened by a nonresident of Canada.

b) Out of country (foreign) investors

BMOII’s mutual fund family is registered for sale across Canada, but has not been registered for sale in any other country. Although most countries do not have restrictions or regulations preventing the sale of mutual funds to their residents, some other countries have unique rules that forbid their residents from buying securities that are not registered in their country. Therefore, to avoid breaching international securities laws, if an investor is a nonresident (as determined by the primary address on their application), a RISR’s decision as to whether to open an account or handle a trade should be based on the rules set out below:

Purchase and switch requests from out of country investors: Clients who opened a mutual fund account before relocating to another country may continue to hold or redeem their current investments.

Residents of the United States (U.S.), United Kingdom (U.K.), Hong Kong or Mainland China, may not open new accounts or make any purchases or switches in their account (including through Continuous Savings Plans).

12. On August 19, 2016, the Respondent met client SD at a branch of BMOII and assisted the client with opening a new TFSA.

13. During the August 19, 2016 meeting, the Respondent reviewed client SD's identification on file with BMOII which included a U.S Permanent Resident Card, and became aware at that time that client SD was a non-resident of Canada.

14. The Respondent submitted the NAAF to open a TFSA for client SD. The client's primary address on the form was recorded as an address in North Vancouver, British Columbia.

15. At the request of client SD, the Respondent then processed a \$46,500 contribution into the account and used the contributed amount to purchase the BMO Balanced EFT Portfolio.

16. During the August 19, 2016 meeting, the Respondent failed to ensure that client SD's primary address was accurately recorded on the NAAF to facilitate the opening of the account. This had the effect of concealing from the Member that client SD was a non-resident of Canada who was therefore not eligible to open a TFSA or make purchases in an investment account with the Member.

17. On April 18, 2017, the Respondent emailed client SD to report on the status of the client's account and informed the client that she had additional contribution room in her TFSA in the amount of \$5,500. The Respondent advised the client to utilize this room by making an additional TFSA contribution.

18. On May 16, 2017, the Respondent processed an additional purchase of \$5,500 into the BMO Select Trust Balanced Portfolio in client SD's TFSA.

19. In October 2019, BMOII placed a lock on client SD's TFSA based on instructions it received from the Canada Revenue Agency ("CRA") resulting from a tax penalty that was imposed on client SD by the CRA as a result of her holding and contributing to a TFSA account while being a non-resident of Canada.

20. From 2016 until 2019, as noted above, the Respondent facilitated two purchases in client SD's TFSA contrary to the policies and procedures of the Member. As a consequence of opening and maintaining a TFSA for which she was not eligible as a non-resident, client SD incurred a tax penalty from the CRA. The Member offered to compensate the client in respect of the penalty, which the client accepted.

21. On November 13, 2019, client SD complained to BMOII about the fact that she had incurred a financial penalty owed to the CRA because the Respondent had advised her to open a TFSA while she was a non-resident of Canada. Client SD asked BMOII to liquidate the TFSA so that the proceeds of the redemption could be used to pay the CRA. Client SD subsequently redeemed her holdings in her TFSA and applied the proceeds towards the payment of her tax penalty.

22. If the Respondent had ensured that client SD's primary address had been accurately recorded on the NAAF or updated at any time to reflect her non-resident status, it is likely that the controls and supervisory processes of the Member would have detected that client SD, as a non-resident of Canada, was ineligible to open a TFSA or purchase investments through the Member.

Additional Factors

23. The Respondent has not previously been the subject of MFDA disciplinary proceedings.

24. By entering into this Settlement Agreement, the Respondent has saved the MFDA the time, resources, and expenses associated with conducting a contested hearing of the allegations.

V. ADDITIONAL TERMS OF SETTLEMENT

25. This settlement is agreed upon in accordance with section 24.4 of MFDA By-law No. 1 (now Mutual Fund Dealer Rule 7.4.4) and Rules 14 and 15 of the Mutual Fund Dealer Rules of Procedure.

26. The Settlement Agreement is subject to acceptance by the Hearing Panel. At or following the conclusion of the Settlement Hearing, the Hearing Panel may either accept or reject the Settlement Agreement. MFDA Settlement Hearings are typically held in the absence of the public

pursuant to section 20.5 of MFDA By-law No. 1 (now Mutual Fund Dealer Rule 7.3.5) and Rule 15.2(2) of the Mutual Fund Dealer Rules of Procedure. If the Hearing Panel accepts the Settlement Agreement, then the proceeding will become open to the public and a copy of the decision of the Hearing Panel and the Settlement Agreement will be made available at www.mfda.ca.

27. The Settlement Agreement shall become effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel. Unless otherwise stated, any monetary penalties and costs imposed upon the Respondent are payable immediately, and any suspensions, revocations, prohibitions, conditions or other terms of the Settlement Agreement shall commence, upon the effective date of the Settlement Agreement.

28. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel:

- a) the Settlement Agreement will constitute the entirety of the evidence to be submitted at the settlement hearing, subject to Rule 15.3 of the Mutual Fund Dealer Rules of Procedure;
- b) the Respondent agrees to waive any rights to a full hearing, a review hearing or appeal before the Board of Directors of the Corporation or any securities commission with jurisdiction in the matter under its enabling legislation, or a judicial review or appeal of the matter before any court of competent jurisdiction;
- c) except for any proceedings commenced to address an alleged failure to comply with this Settlement Agreement, Staff will not initiate any proceeding under the Mutual Fund Dealer Rules against the Respondent in respect of the facts and contraventions described in this Settlement Agreement. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any facts and contraventions that are not set out in this Settlement Agreement, whether known or unknown at the time of settlement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations;

- d) the Respondent shall be deemed to have been penalized by the Hearing Panel pursuant to section 24.1.1 of MFDA By-law No. 1 (now Mutual Fund Dealer Rule 7.4.1.1 for the purpose of giving notice to the public thereof in accordance with section 24.5 of MFDA By-law No. 1 (now Mutual Fund Dealer Rule 7.4.5); and
- e) neither Staff nor the Respondent will make any public statement inconsistent with this Settlement Agreement. Nothing in this section is intended to restrict the Respondent from making full answer and defence to any civil or other proceedings against the Respondent.

29. If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondent fails to honour any of the Terms of Settlement set out herein, Staff reserves the right to bring proceedings under Mutual Fund Dealer Rule 7.4.3 against the Respondent based on, but not limited to, the facts set out in this Settlement Agreement, as well as the breach of the Settlement Agreement. If such additional enforcement action is taken, the Respondent agrees that the proceeding(s) may be heard and determined by a hearing panel comprised of all or some of the same members of the hearing panel that accepted the Settlement Agreement, if available.

30. If, for any reason, this Settlement Agreement is not accepted by the Hearing Panel, each of Staff and the Respondent will be entitled to any available proceedings, remedies and challenges, including proceeding to a disciplinary hearing pursuant to sections 20 and 24 of MFDA By-law No. 1 (now Mutual Fund Dealer Rules 7.3 and 7.4), unaffected by the Settlement Agreement or the settlement negotiations.

31. The terms of this Settlement Agreement will be treated as confidential by the parties hereto until accepted by the Hearing Panel, and forever if, for any reason whatsoever, this Settlement Agreement is not accepted by the Hearing Panel, except with the written consent of both the Respondent and Staff or as may be required by law. The terms of the Settlement Agreement, including the attached Schedule "A", will be released to the public if and when the Settlement Agreement is accepted by the Hearing Panel.

32. The Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement. A facsimile or electronic copy of any signature shall be as effective as an original signature.

DATED this 24th day of April, 2023.

“Seongho (Steve) Park”

Seongho (Steve) Park

“DR”

Witness – Signature

DR

Witness – Print name

“Charles Toth”

Staff of the CIRO

Per: Charles Toth

Canadian Investment Regulatory Organization, Vice-
President, Enforcement (Mutual Fund Dealers)

ⁱ On January 1, 2023, the Investment Industry Regulatory Organization of Canada (“IIROC”) and the Mutual Fund Dealers Association of Canada (the “MFDA”) were consolidated into a single self-regulatory organization that is temporarily called the New Self-Regulatory Organization of Canada (referred to herein as the “Corporation”) and is recognized under applicable securities legislation. The Corporation adopted interim rules that incorporate the pre-amalgamation regulatory requirements contained in the rules and policies of IIROC and the by-law, rules and policies of the MFDA (the “Interim Rules”). The Interim Rules include (i) the Investment Dealer and Partially Consolidated Rules, (ii) the UMIR and (iii) the Mutual Fund Dealer Rules. These rules are largely based on the rules of IIROC and certain by-laws, rules and policies of the MFDA that were in force immediately prior to amalgamation. Pursuant to Mutual Fund Dealer Rule 1A and s. 14.6 of By-law No. 1 of the Corporation, contraventions of former MFDA regulatory requirements may be enforced by the Corporation. Pursuant to Mutual Fund Dealer Rule 1A, MFDA By-law No. 1 continues to be applicable to this proceeding.



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IN THE MATTER OF
THE MUTUAL FUND DEALER RULES
and
Seongho (Steve) Park

ORDER

WHEREAS on November 24, 2022, the Mutual Fund Dealers Association of Canada (the "MFDA") issued a Notice of Hearing pursuant to sections 20 and 24 of MFDA By-law No. 1 (now Mutual Fund Dealer Rules 7.3 and 7.4) in respect of a disciplinary proceeding commenced against the Seongho (Steve) Park (the "Respondent");]

AND WHEREAS on January 1, 2023, the MFDA and the Investment Industry Regulatory Organization of Canada ("IIROC") consolidated to form the New Self-Regulatory Organization of Canada (the "Corporation");

AND WHEREAS an appearance was held by videoconference before a Hearing Panel of the Pacific Regional Council of the MFDA in this matter on February 22, 2023;

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the New Self-Regulatory Organization of Canada, a consolidation of IIROC and the MFDA (the "Corporation") dated [date] (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to sections 20 and 24.1 of MFDA By-law No. 1 (now Mutual Fund Dealer Rules 7.3 and 7.4.1);

AND WHEREAS based upon the admissions of the Respondent in the Settlement Agreement, the Hearing Panel is of the opinion that:

Between August 2016 and May 2017, the Respondent opened a new Tax-Free-Savings-Account and processed two mutual fund purchases in respect to a client who was a non-resident of Canada, which the Respondent was not permitted to do pursuant to the policies and procedures of the Member, and MFDA Rules 2.2.1, 2.1.1 and 1.1.2 (as it relates to MFDA Rule 2.5.1) (now Mutual Fund Dealer Rules 2.2.1(1), 2.1.1, 1.1.d and 2.5.1);

IT IS HEREBY ORDERED THAT

1. The Respondent shall pay a fine of \$10,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.1.1(b) of MFDA By-law No. 1 (now Mutual Fund Dealer Rule 7.4.1.1(b));
2. The Respondent shall pay costs of \$5,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.2 of MFDA By-law No. 1 (now Mutual Fund Dealer Rule 7.4.2);
3. The Respondent shall in the future comply with MFDA Rules 2.2.1, 2.1.1 and 1.1.2 (as it relates to MFDA Rule 2.5.1) (now Mutual Fund Dealer Rules 2.2.1(1), 2.1.1, 1.1.2 and 2.5.1); and
4. If at any time a non-party to this proceeding, with the exception of the bodies set out in Mutual Fund Dealer Rule 6.3 (formerly section 23 of MFDA By-law No. 1), requests production of or access to exhibits in this proceeding that contain personal information as defined by the Corporation's Privacy Policy, then the Corporate Secretary's Office, Mutual Fund Dealer Division of the Corporation shall not provide copies of or access to the requested exhibits to the non-party without first redacting from them any and all personal information, pursuant to Rules 1.8(2) and (5) of the Mutual Fund Dealer Rules of Procedure.

DATED this [day] day of [month], 2023.

Name,
Chair

Name,
Industry Representative

Name,
Industry Representative