

Complaints




THE MANITOBA
SECURITIES
COMMISSION



The image features a yellow-tinted background with financial data. In the upper half, a line graph shows a fluctuating trend over two months, June and July. The y-axis has numerical values including 13,800, 14,000, 14,200, and 14,400. A source credit 'Source: Thomson Financial' is visible on the left. In the lower half, there are stacks of coins, with a line graph in the background showing an upward trend. The y-axis for this graph has values like 11,000, 11,200, 11,400, and 11,600. The word 'CLOSE' is visible above the top value.

Our goal is to foster fair
and efficient capital markets
and confidence in
their integrity.



The Role of the Manitoba Securities Commission

The Manitoba Securities Commission (MSC) protects the public interest by seeking to prevent unfair, improper or fraudulent acts against investors and by disciplining those who contravene Manitoba securities law. Our goal is to foster fair and efficient capital markets and confidence in their integrity.

One of the means to accomplish these goals is dealing with investor complaints.

When reviewing complaints the MSC focuses on compliance with the law, primarily the Securities Act (Manitoba).

This brochure is provided to help those who have concerns relating to the activities of their investment adviser or firm. It is meant to be a helpful guide to complaint assessment, procedures and investor tips.

Do I have complaint?

Investments may not always turn out the way we'd like.

Values can fluctuate and cause you to lose money. This is simply a reality of investment markets. It is the responsibility of your adviser and you to ensure that the investments you choose are suitable for your investment objectives, risk tolerance and personal circumstances.



Mistakes can happen.

Mistakes can happen in the investment industry. These can range from minor errors to more serious mishaps.

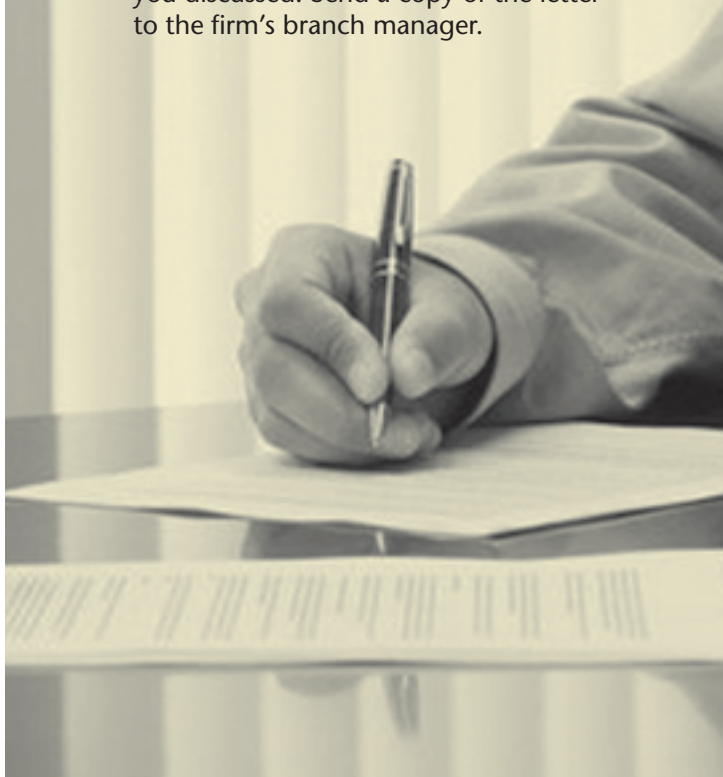
In most instances, the firm you deal with will act quickly to fix such problems. At other times, the matter may be more difficult to resolve or the firm may dispute that a mistake has occurred.

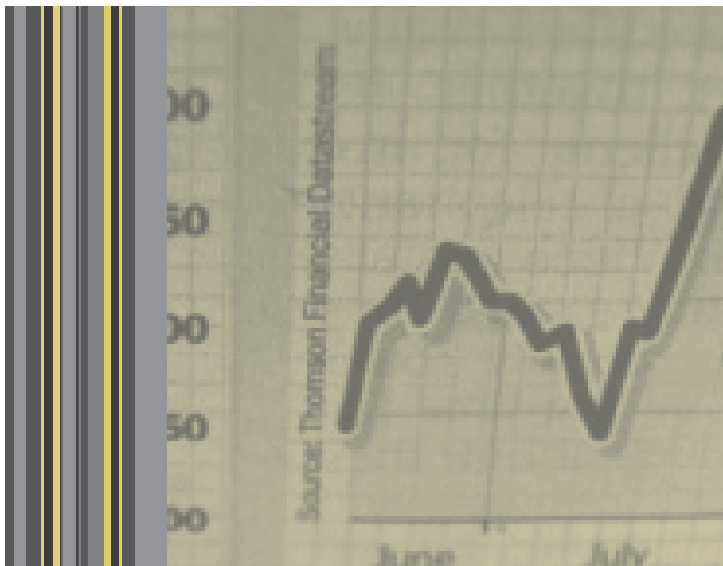
The following may indicate that your adviser or firm has acted improperly. For example if your adviser:

- Completes a transaction on your behalf without your consent
- Promises future value
- Suggests a future listing on a stock exchange
- Back dates purchases orders
- Asks you to pre-sign blank forms
- Guarantees repurchase of securities or a refund of the purchase price
- Fails to provide a prospectus
- Generates excessive commissions

Try to resolve your dispute with your adviser or the firm.

- Clearly explain your problem.
- Have handy any reference numbers you might need such as your account number and any transaction details.
- Make notes of your conversation, who you spoke to and the time of the call. You may need to refer to these notes later if you decide to file a formal complaint or take legal action.
- The person you speak to may immediately agree that you have a valid complaint or they may be able to clear up any misunderstanding. If the firm agrees to fix a problem, write a letter to the individual you spoke to confirming what you discussed. Send a copy of the letter to the firm's branch manager.





Unresolved Complaint

If the matter remains unresolved, you may escalate the matter by sending a written complaint letter to the firm's compliance department.

Your letter to the compliance department should outline your specific concerns and include copies of any documents or statements that support your position. Keep the letter factual and business-like.

The compliance department should acknowledge your letter shortly after they receive it. The length of time that they take to review your matter depends on the complexity of the situation.

If you are dissatisfied with the result at the firm level you have an option to file a complaint with the MSC.

How to File a Complaint with the Manitoba Securities Commission

Tell Your Story,
the way it happened.

It is preferred that you file your complaint in writing.

When writing your letter you should:

Make a list of the things you want to say. For each point provide answers to these questions: **what** happened? **when** did it happen? and **who** was involved?

Stick to the facts and avoid subjective comments. Although you may feel frustrated that your complaint has not been corrected after several attempts, don't be tempted to



- Type your complaint or print it clearly in dark ink. This will make it easier to read and to photocopy.
- Include the following information: your name, address and telephone numbers, the name of the firm involved, the people you dealt with and your account numbers at the firm.
- Describe what happened in the order in which the events occurred. List the dates things happened and the names of the people involved. **Provide details** of where any conversations or meetings took place and who attended the meetings or took part in the conversations.
- Explain why you think what happened was improper.
- List the steps you have taken to solve the problem with the individual concerned and the firm.
- Include **copies** of any notes you've made or letters you have written or received relating to the issue. Also include **copies** of any relevant certificates, agreements, cancelled cheques, advertisements or any other documents that might help us understand your complaint.

Do not send original documents.



The Role of the Manitoba Securities Commission

The MSC can:

- Investigate complaints
- Answer general questions about investment products and services
- Tell you if a firm or representative is registered in Manitoba
- Tell you if an individual or firm has ever been disciplined by the MSC
- Suggest options for pursuing your complaint and tell you which organization may be of the most help
- Enforce compliance with securities legislation
- Act against market misconduct, including removing from the market those who do not comply with the law or who cheat investors
- Order payment for financial loss

The MSC cannot:

- Undo a transaction
- Give advice on an investment
- Give legal advice
- Negotiate a settlement on your behalf
- Comment on an investigation
- Force someone to give you your money back

What happens next?

(How we handle your complaint)

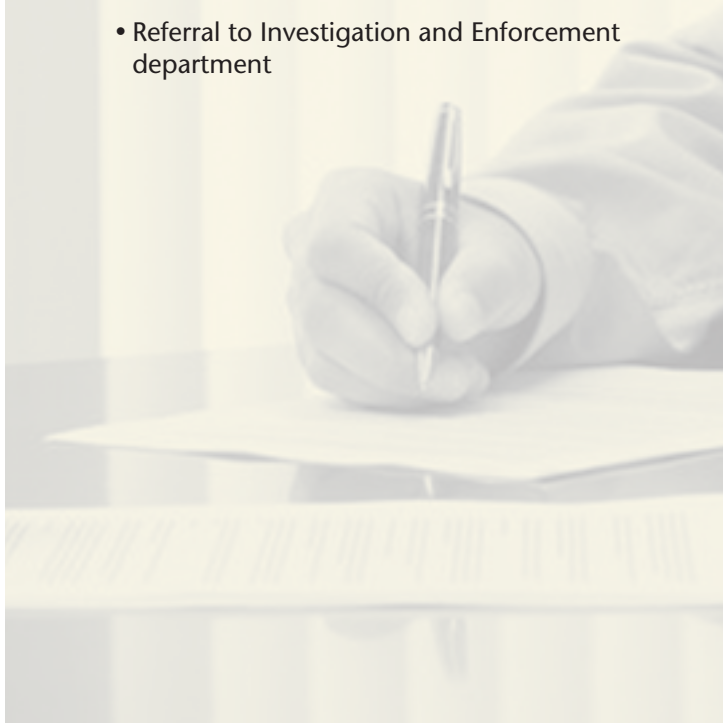
When we receive your complaint it is assigned to one of our staff. How long it takes to review your complaint depends on the complexity of the situation. We may need additional time to obtain more information.

While we are conducting our review we cannot give you any information relating to the status of your complaint. Our activities must be kept confidential in order that our review is not compromised.

Once we have completed our review, we will send you a letter explaining our findings.

The findings may result in one of three options:

- File closed with no further action
- Referral to another association or agency
- Referral to Investigation and Enforcement department



Investigation and Enforcement

If evidence supports a possible breach of securities law, your matter will be referred to the Investigation and Enforcement Department for further review.

Investigators at the MSC interview witnesses and gather relevant documentation. Once this process is complete it may be determined that no action is to be taken. If there is a recommendation for action the information is presented to a panel of Commission members. The panel decides on one of three options:

- No action.
- Prosecution in Provincial court.
- Administrative hearing – This may range from a full hearing to the approval of a settlement agreement. At a hearing, it may be determined that the Commission will:
 - Deny exemptions
 - Suspend or cancel license
 - Reprimand
 - Enter into a settlement agreement
 - Issue an order for Compensation for Financial Loss



Financial Loss

Manitoba Legislation permits individuals to make a claim for Compensation for Financial Loss to recover financial losses up to \$100,000.

You may be eligible to make a claim if it is determined that a person or company managing your investments misled you or acted illegally in a way that has harmed you financially. In some cases, the result of a hearing can require a person or company to compensate you for your financial losses. In order to make a claim you must have suffered a financial loss due to:

- A violation of the Securities Act, or
- The illegal or improper conduct of a person or company selling securities

A claim for financial loss does not include a loss caused by changes in the financial markets.

Following a hearing the Commission may issue an order directing that you be compensated for your loss. This can be registered in the Manitoba Court of Queen's Bench as a judgment. The commission can not collect or enforce the judgment on your behalf. This is your responsibility.

There may be other options available to you. It is your responsibility to determine which if, any of these alternative options suits you.

- i) **Small Claims Court** – Provides you with an easier and less expensive way to sue for compensation and damages.
- ii) **Binding Arbitration** – If your disagreement is with a firm who is member of the IDA, you have the option of taking your case to a hearing by an independent arbitrator.
- iii) **Civil Court** – You could engage a lawyer to take your case to court.
- iv) **Ombudsman for Banking Services and Investments** – This is an industry-funded service that will receive and review investor complaints.

Tips for Investors

Research an individual and firm prior to signing up as a client. Ask family or friends for referrals. Call the MSC to determine registration status and if past disciplinary action has been taken against them.

- Never invest in an investment product unless you understand the risks.
- Ask your adviser lots of questions especially if you do not understand what he/she is saying.
- Review the prospectus/offering document.
- After speaking with your adviser always make notes about the issues discussed, decisions made and actions to be carried out.
- Review statements and transaction confirmations to ensure the instructions you gave your representative were carried out.



Your Adviser should:

Advisers have an obligation to know their client. In order for your adviser to make appropriate investment recommendations he/she should ask a number of questions, some of which may include:

- What are your investment objectives?
- What is your age?
- What is your annual income and net worth?
- What is your occupation?
- What is your tolerance for risk?
- What investment knowledge or experience do you have?
- Can you provide to me identity verification documents?

All advisers must be employed by a firm which is responsible for supervising the activities of that adviser. In addition, your adviser must be registered with The Manitoba Securities Commission.

Avoiding Problems

Getting into a dispute with an investment firm is not fun for anyone. But there are things you can do to lessen the chances of finding yourself in that situation.

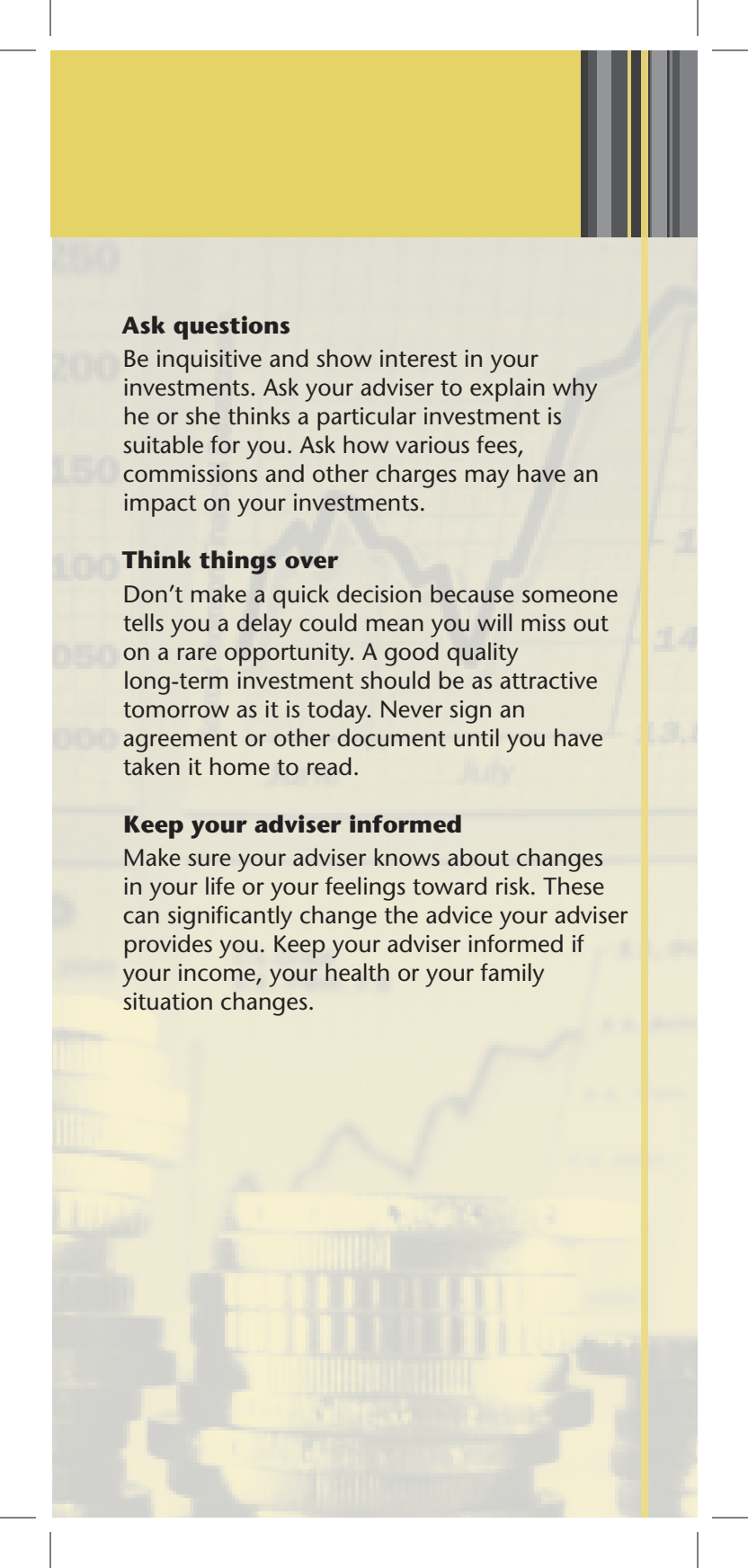
Taking steps to avoid problems can also help you be prepared if a problem does arise.

Read the fine print

Read every document provided to you regarding your investments including, know your client form account agreements, mutual fund and other prospectuses, account statements and trade confirmations. This will help prevent misunderstandings over fees and service standards. Be especially careful about signing agreements that say you have received a prospectus or other disclosure document when you haven't been given one.

Keep records

File all documents about your account in a safe place after reading them. Ask your adviser for an updated copy of your investment profile at least once a year. Take notes of each conversation you have with your adviser or dealer and file these away, as well.

The background of the page features a faint, light-colored line graph with a yellow line showing an upward trend. The graph is overlaid on a background of a stack of gold coins. The top of the page has a solid yellow bar on the left and a vertical yellow line on the right. The text is in a clean, sans-serif font.

Ask questions

Be inquisitive and show interest in your investments. Ask your adviser to explain why he or she thinks a particular investment is suitable for you. Ask how various fees, commissions and other charges may have an impact on your investments.

Think things over

Don't make a quick decision because someone tells you a delay could mean you will miss out on a rare opportunity. A good quality long-term investment should be as attractive tomorrow as it is today. Never sign an agreement or other document until you have taken it home to read.

Keep your adviser informed

Make sure your adviser knows about changes in your life or your feelings toward risk. These can significantly change the advice your adviser provides you. Keep your adviser informed if your income, your health or your family situation changes.

Contact information
for **organizations**
mentioned **in this guide.**

**Ombudsman for Banking
Services & Investments**

Phone: 1 (888) 451.4519 or (416) 287.2877

Website: www.obsi.ca

E-mail: ombudsman@obsi.ca

IDA Arbitration Program

Arbitration Dispute Resolution (ADR) Chambers

Phone: (604) 684.2821 or 1(877) 684.2821

Fax: (604) 736.9233

Website: www.bcicac.com

**The Mutual Fund Dealers
Association (MFDA)**

**Mutual Fund Dealers Association of Canada
Complaints Department, Enforcement Branch**

Phone (416) 361.6332 or 1 (888) 466.6332

Fax: (416) 361.9073

E-mail: complaints@mfd.ca

Manitoba Securities Commission

500-400 St. Mary Avenue

Winnipeg, MB R3B 4K5

Phone: (204) 945.2548

Toll Free: 1 (800) 655.5244

E-mail: securities@gov.mb.ca

Website: www.msc.gov.mb.ca



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Submitting Complaints and Collection of Personal Information

In reviewing a complaint, it may be necessary for staff of the Manitoba Securities Commission to obtain "personal information" as defined by the Freedom of Information and Protection of Privacy Act (Manitoba).C.C.S.M. c. F175. Disclosure of personal information may be made to another securities regulator, self regulatory organization, law enforcement, or person if staff determine disclosure is required to complete its review of the complaint.