

Portus faces class action from investors

Funds group gathers evidence on firms' actions

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A number of **Portus Alternative Asset Management Inc.** investors are lining up to join a class-action lawsuit while regulators dispatched investigators to conduct on-site reviews at the offices of dealers who referred clients to the beleaguered hedge fund firm.

Yesterday, the Mutual Fund Dealers Association contacted a number of dealers who received referral payments from Portus to "gather evidence with respect to how they referred their clients to Portus," said Larry Waite, head of the self-regulatory agency. The MFDA obtained a comprehensive list of the dealers from the Ontario Securities Commission, which is probing the investment firm's sales and compliance practices.

Mr. Waite declined to give details, except to say the self-regulatory agency is reviewing the Portus transactions with agents and brokers to determine whether fees were properly disclosed to investors, and whether the actions of these fund-dealer agents

constituted a referral or an actual sale.

Particular scrutiny will focus on whether these fees were outlined to investors. Michael Watson, director of enforcement at the OSC, has said that about \$87.6-million - or about 12% of the total value of the fund - had been paid in commissions, referral fees and other management expenses to its related entities and to third-party firms that referred clients.

However, according to Mr. Watson, "I don't believe that was ever disclosed," to Portus' investors.

Meanwhile, Greg Monforton, a class-action litigator based in Windsor, Ont., said dozens of Portus investors, some with as much as \$100,000 locked up, have contacted his firm since the OSC banned Portus from trading and returning funds to clients last week. The order effectively froze about \$717-million worth of investments currently managed by Portus until May.

"It's an awful lot of money and we were frankly surprised by the number of inquiries we've had in such a short time," Mr. Monforton said yesterday.

The class-action litigator said his firm is "investigating legal claims against Portus" and is consulting with experts in the securities and financial services industry to review the investment firm's operations as well as the probes under way by the OSC and seven other securities regulator Canada.

A Web site encouraging Portus investors to contact Mr. Monforton claims that "many experts believe the investment firm's policies make it nearly impossible for an investor to make a positive return. It is estimated the fund would require a 15% annual return to cover the various fees and administrative costs incurred by Portus management."

Mr. Monforton's Web site claimed the fees paid in sales commissions by Portus are "unusually high and likely were not disclosed to investors." As well, it claims regulators in Canada are "investigating whether Portus was skirting securities regulations" when it funneled clients assets through a company operating in the Grenadine Islands in the Caribbean.

The Investment Dealers Association has been reviewing the conduct of dealers and has found that 28 clients of IDA member firms were sold Portus products in 45 transactions worth about \$330,000.

Portus, which insists that client money is "safe," closed down its operations two days ago, immediately terminating 56 employees.