



January 24, 2025

VIA EMAIL

Member Regulation Policy
Canadian Investment Regulatory Organization
Suite 2600
40 Temperance Street
Toronto, Ontario M5H 0B4
email: memberpolicymailbox@ciro.ca

Trading and Markets
Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto, Ontario M5H 3S8
email: tradingandMarkets@osc.gov.on.ca

Capital Markets Regulation
B.C. Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street, Vancouver, British
Columbia, V7Y 1L2
email: CMRdistributionofSROdocuments@bcsc.bc.ca

Re: Rule Consolidation Project – Phase 4 (the “Consultation”)

The Canadian Advocacy Council of CFA Societies Canada (the “CAC”)¹ appreciates the opportunity to provide the following general comments and specific responses to the questions posed in the Consultation.

Generally, we are pleased that when consolidating the IDPC Rules and the MFD Rules, CIRO has typically opted for applying the more stringent requirement where there is a divergence. We support this approach, as in our view, in most cases this approach drives better investor protection outcomes whilst not being overly burdensome or cost prohibitive. As a general point, we would encourage CIRO to continue to view any remaining divergences in the rules with the same lens.

Question #1 – Definition and application of “investment product”

- **Will the revised definition, and application of the term “investment product” provide additional clarity to the scope of Dealer Member obligations to clients?**

¹ The CAC is an advocacy council for CFA Societies Canada, representing the 12 CFA Institute Member Societies across Canada and over 21,000 Canadian CFA charterholders. The council includes investment professionals across Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. Visit www.cfacanada.org to access the advocacy work of the CAC.

As the global association of investment professionals, CFA Institute sets the standard for professional excellence and credentials. The organization is a champion of ethical behaviour in investment markets and serves as the leading source of learning and research for the investment industry. CFA Institute believes in fostering an environment where investors' interests come first, markets function at their best, and economies grow. With more than 200,000 charterholders worldwide across 160 markets, CFA Institute has ten offices and 160 local societies. Find us at www.cfainstitute.org or follow us on LinkedIn and X at @CFAInstitute.



- **What additional investment products should we consider obtaining Board approval to include in this definition?**
- **Are there different products that should be added for different regulatory purposes?**

We support CIRO's revised definition of an investment product. Setting out the types of investment products rather than using the generic term of "assets" will provide more certainty to stakeholders, and we appreciate CIRO's reasoning for the change. Further, the provision within the definition that affords the CIRO Board the ability to determine which other products should be treated as an investment product in future not only affords CIRO flexibility to address novel products on an *ad hoc* basis, but also places the responsibility on CIRO to make such declarations, which in our view, will promote clarity. We would encourage CIRO to provide guidance and examples on what would not be considered an investment product, so stakeholders can better understand the limitations of this term. We would strongly encourage CIRO to work with the CSA to close gaps in regulatory coverage where they exist, such as in collective investment vehicles investing into assets that are not deemed securities or investment funds by nature of the underlying investments, and newer and evolving asset classes such as cryptoassets.

Question #2 – Applying CFO requirements to mutual fund dealers

We are seeking feedback on several points regarding this proposal:

- **For mutual fund dealers who do not support the implementation of this requirement (and in particular, any mutual fund dealer who do not currently have a CFO), we inquire as to who, at an individual level, fulfills their existing financial obligations under MFD Rule section 3 (which broadly assigns the obligations to the 'Member' instead of an individual), including a description of who oversees financial risk to clients and the organization on a regular (i.e. daily) basis.**
- **To what extent, and on what basis, should the proposed CFO requirement reflect the Rule Consolidation Project objective of scalability? For instance, should the requirement for a Dealer Member to designate a CFO only apply to mutual fund dealers in certain scenarios, such as:**
 - **Based on a certain minimum AUM (and what should that threshold AUM be),**
 - **If a mutual fund dealer has a corporate governance and/or Executive structure beyond a single UDP/CCO, and/or**
 - **Based on the complexity of products or services offered (and if so, which products and/or services require the financial expertise of a CFO)?**
- **Whether there are significant concerns regarding the potential scarcity of CFO candidates in the mutual fund industry and/or the anticipated time horizon to hire a CFO candidate at a mutual fund dealer.**



We are generally in support of applying CFO requirements to mutual fund dealers. In our view, there should not be a significant scarcity of CFO candidates in the industry (or otherwise acceptable candidates existing in adjacent industries) to prohibit proceeding with this implementation, particularly if it is determined that this requirement should only apply in certain scenarios. Having professional financial leadership contributes significantly in our view to performance of the gatekeeping function of dealers generally, and to the integrity of the reporting and controls inherent in a well-functioning self-regulatory regime.

Although we would prefer this requirement to apply in all cases, we do acknowledge that for certain mutual fund dealers, because of unique business models or newly-obtained registration, the requirement for a CFO may not be immediately necessary and in such cases the CFO function could be successfully outsourced or shared. As such, we would also support a minimum AUM threshold (for example, \$100 million) and complexity of products/services offered and/or business model test in the case of mutual fund dealers only, before applying the CFO requirements. With respect to complexity of products and/or services offered and the business model, we believe there should be a requirement for a CFO as a condition to offer margin accounts, for instance.

Question #3 – Proficiency requirements and the Approved Person regime for UDP of mutual fund dealers

- **Given that the UDP has the highest level of liability and oversight in a Dealer Member, is it reasonable to impose the CIRO approval process as is currently set out in the IDPC Rules (including the successful completion of courses, examinations, and minimum experience) in addition to the registration required by securities legislation?**
- **If the answer to the above is ‘yes,’ this may be disruptive to mutual fund dealers whose UDP does not currently meet the proficiency requirements set out in the IDPC Rules. To what extent is it appropriate to exempt these existing UDPs from these requirements, or alternatively, to provide a longer time horizon (beyond the general implementation date) for them to complete their proficiency requirements?**

We would generally support the additional imposition of CIRO’s approval process set out in the IDPC Rules for all UDPs. In the case of legacy UDPs of mutual fund dealers who do not meet the IDPC Rules’ proficiency requirements, we would be supportive of an extended transition period to meet these requirements, and/or a streamlined individual application and exemption process for individual review of these individuals’ significant relevant experience and record of good conduct and oversight, where it exists. We would support the imposition of CIRO’s approval process and IDPC Rules requirements on all UDP candidates on a go forward basis after the reasonable notice period inherent in the approval of the consolidated rules, as has been announced by CIRO.

As one element of this transition for the cohort of legacy UDPs needing to meet the IDPC Rules’ requirements, we would support CIRO developing specific education training to assist in this one-time transition that these UDPs could attend, addressing the specific incremental requirements and competencies expected.



Question #4 – Implementation for existing (unregistered) Approved Persons of Mutual Fund Dealer Members

- **To what extent would it be appropriate to grandfather the existing Directors of mutual fund dealers into the Approved Person regime? Please advise if there are significant concerns regarding this approach, particularly regarding the lack of minimum proficiency requirements of existing mutual fund dealer Directors and whether this could undermine investor confidence in mutual fund dealer as compared to investment dealers.**

We would support including existing Directors of mutual fund dealers into the Approved Person regime. In our view, this would help strengthen the governance frameworks of mutual fund dealers, particularly since certain Directors of mutual fund dealers may not be particularly active in the business. We would support grandfathering Directors who are either UDPs (subject to the comments regarding transition above) or registered under securities laws in another category. We would not support grandfathering Directors who are solely permitted individuals under National Instrument 33-109 Registration Information.

Question #5 – Transition period for Approved Person categories where new requirements are introduced or existing requirements have been materially changed

- **Given the above considerations, should the proposed proficiency requirements for mutual fund dealers' Approved Persons be subject to an extended transition period beyond the general effective date for the DC Rules, and if so, what is an appropriate extended transition period?**

Given the extended timeline for consultation (both by-phase and then again as a complete rulebook) announced by CIRO, we would not support an extended transition period beyond the general effective date for the DC Rules to permit impacted Approved Persons to take the necessary steps to comply with the new obligations, with the exception of transitioning UDPs, as noted above, for whom an extended timeline (perhaps of one additional year beyond the effective date of the DC rules) could be appropriate.

Question #6 - Prohibition on accepting certain positions of control or authority over client affairs

- **Does the addition of the prohibition on an Approved Person or employee accepting a position of power of attorney, trustee, executor or otherwise having full or partial control of the affairs of a client have implications in respect of the relationship between the client and the Approved Person or employee? Should there be exceptions to this prohibition, and if so, under what circumstances?**



We are generally in support of the additional prohibition on an Approved Person or employee from accepting a position of power of attorney, trustee, executor or otherwise having full or partial control of the affairs of a client. However, CRO should consider an exception for independent Directors who serve no business or client-facing function, whose role is to provide impartial opinions and are separate from the business.

Question #7 – Prohibition on being named as beneficiary

- **Is it appropriate to prohibit an employee or Approved Person from accepting the status of a beneficiary of a client's estate or receiving a bequest from a client's estate upon learning of such status unless they are a member of the client's immediate family?**

In our view this is an appropriate prohibition, however CRO could consider an exception for independent Directors as outlined above.

Concluding Remarks

We thank you for the opportunity to provide these comments and would be happy to address any questions you may have. Please feel free to contact us at cac@cfacanada.org on this or any other issue in the future.

(Signed) *The Canadian Advocacy Council of
CFA Societies Canada*

**The Canadian Advocacy Council of
CFA Societies Canada**