Tuesday, February 4, 2025

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Trading and Markets
Ontario Securities Commission
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B.C. Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street, Vancouver, British Columbia, V7Y 1L2

Re: CIRO's Rule Consolidation Project - Phase 4 Proposed Dealer and Consolidated (DC) Rules (24-0293) issued on October 17, 2024

The **Canadian Independent Finance and Innovation Counsel (CIFIC)** appreciates the opportunity to provide comments to CIRO regarding Phase 4 of its Rule Consolidation Project.

The Canadian Independent Finance and Innovation Counsel represents national Investment Dealers and their industry's position on securities regulation, public policy, and industry issues. We represent notable CIRO-regulated Investment Dealers in the Canadian securities industry.

Phase 4 - Overview of proposed changes to harmonize the Approved Person regime and corresponding proficiency requirements (2.3.1)

The industry agrees with the following excerpt from CIRO's notice regarding the Approved Person regime:

> We acknowledge that these proposed changes are likely to have a significant impact on mutual fund dealers. However, one of the primary objectives of the Rule Consolidation Project is to ensure that like activities of Dealers are regulated in a like manner. Standardizing the Approved Person regime and proficiency requirements will ensure that the clients of mutual fund dealers can be confident that their advisers, and the oversight of those advisers, are subject to the same standards as are afforded to clients of investment dealers. Each of these Approved Person categories are responsible in some way for regulated responsibilities. Allowing mutual fund dealers' Approved Persons categories who are not subject to registration requirements under securities legislation to avoid any review process by a securities regulatory authority, while their investment dealer counterparts are subject to a CIRO approval process, results in too stark of a difference in the protections provided to their respective clients.

The Investment Dealers we represent fully agree with CIRO's view: Canadian investors must be protected whether they are investing through an Investment Dealer or a mutual fund dealer. Strict and standardized rules and regulations are necessary to maintain the public's confidence in our industry.

We will return to this fact, including in our responses to CIRO's questions on the proposal, at the end of this comment letter.

Harmonizing the Approved Person review process for Supervisors across Dealer Members

The industry fully supports the following excerpt from CIRO's proposal:

> To ensure investor protection and confidence with respect to these functions, we believe that CIRO must review applicants for Supervisors of mutual fund dealers in the same way that is currently required for their counterparts at investment dealers. This is necessary to ensure that CIRO has confirmed the adequate experience and aptitude of such an applicant prior to that individual being able to act in a Supervisor capacity and is aligned with the primary objective of ensuring that like Dealer Member activities are regulated in a like manner.

The Investment Dealers we represent fully agree with CIRO's view. Canadian investors must be protected whether they are investing through an Investment Dealer or a mutual fund dealer. As mentioned above, strict and standardized rules and regulations are necessary to maintain the public's confidence in our industry.

Approved Person category: Executive (2.3.4)

We agree that the category of Executive must be extended to apply to mutual fund dealers.

We do not oppose clarifying the Executive category to ''capture individuals who are involved in a Dealer Member's senior management that manage, and/or have authority over, areas of the Dealer Member's business that involve, and/or have an impact on, regulatory requirements.'' We support the aim of eliminating any possible confusion regarding this category.

Managing significant areas of risk

Rule 1500 of the IDPC Rules sets out that Investment Dealers are required to assign Executives to manage significant areas of risk within the firm. The Investment Dealers that we represent believe that these requirements are appropriate and should also apply to mutual fund dealers. We agree that mutual fund dealers should be required to ensure that all significant areas of risk are managed by an individual whose proficiency and experience has been approved by CIRO.

Approved Person category: Chief Financial Officer (2.3.6)

The Investment Dealers we represent support applying the CFO requirement across all Dealer Members including mutual fund dealers.

CIRO's proposal mentions the following:

> We propose to adopt the IDPC Rule provisions relating to the general requirements for CFOs across Dealer Members for the following reasons:
>
> 1. Internal CIRO consultation has indicated a strong desire to require CFOs at both types of Dealer Members to ensure a consistent level of financial subject matter expertise across both types of Dealer Members;
> 2. In Phase 1, we asked stakeholders whether we should maintain two different regulatory financial filing forms or one for both categories of Dealer Members. Several commenters supported moving to a single Form 1 that would apply to all Dealer Members. CFOs are integral contributors to that document and have explicit responsibilities and obligations set out within that document; and
> 3. CFOs are not required to be actively engaged in the business of the Dealer Member on a full-time basis, if that is appropriate for that Dealer Member's business. This same flexibility would be available to mutual fund dealers, which provides some relief from potential impacts on resourcing as a result of this proposed change.

The Investment Dealers we represent agree with the proposed adoption of the IDPC Rule provisions relating to the general requirements for CFOs across Dealer Members, as it aligns with the objectives of consistency, efficiency, and adaptability in financial oversight.

Requiring a consistent level of financial subject matter expertise across both types of Dealer Members ensures that all Dealer Members meet a high standard of financial governance and compliance, fostering greater confidence in the regulatory framework.

Consolidating the regulatory financial filing forms into a single Form 1 is a logical step forward, as it reduces duplication and complexity while maintaining the explicit responsibilities and obligations for CFOs within that document, thus enhancing the uniformity and clarity of financial reporting requirements.

Additionally, the flexibility to allow CFOs to engage with the Dealer Member's business on a non-full-time basis, where appropriate, is a pragmatic and balanced approach that accommodates the diverse operational models of Dealer Members without compromising the robustness of financial oversight.

This flexibility also mitigates potential resourcing challenges and reflects an understanding of the varying needs and capacities of Dealer Members, making the proposed changes both equitable and practical.

<u>Harmonize the Approved Person regime and proficiency requirements for CFOs across Dealer Members</u>

CIRO's proposal states the following:

> Under the IDPC Rules, CFOs are subject to the Approved Person regime. We propose to impose the same requirements to CFOs across both types of Dealer Members under the Phase 4 Proposed DC Rules, including the corresponding proficiency requirements.

The Investment Dealers we represent fully support the proposal to impose the same requirements on CFOs across both types of Dealer Members, including the corresponding proficiency requirements, consistent with the Investment Dealers' Approved Person regime.

Aligning these requirements ensures that all CFOs possess the necessary qualifications, expertise, and accountability to uphold high standards of financial oversight and governance across the industry. This harmonization promotes regulatory consistency and clarity while reinforcing the critical role CFOs play in ensuring compliance with financial and operational standards.

By requiring uniform proficiency standards, the proposed approach fosters a level playing field, enhances investor confidence, and strengthens the integrity of the financial system across all Dealer Members.

Personal financial dealings – Application to employees (2.5.2)

CIRO's proposal states:

> We propose to adopt the IDPC Rule provision that restricts both investment dealer employees and Approved Persons from engaging in any personal financial dealings with clients. The provisions in the equivalent MFD Rules apply only to mutual fund dealer Approved Persons, and do not extend to employees.

The Investment Dealers we represent note that by extending the prohibition to include all employees of Dealer Members (where the current MFD rules only apply to Approved Persons and not to their employees), the proposal seems to address potential conflicts of interest that could arise from personal financial dealings and effectively harmonize the regimes.

Most of the Investment Dealers we represent support these provisions but also believe it is essential for them to have some discretion to approve such dealings on a case-by-case basis when needed. Such approval would require a thorough analysis to ensure that the investor remained fully protected and was not adversely affected by any personal financial arrangements.

Some Investment Dealers hold a different perspective, asserting that such matters should not be formally enshrined in regulation. Instead, they argue that these principles—primarily concerning conflicts of interest—should be carefully assessed and managed by each firm individually. It is incumbent upon Investment Dealers to establish and enforce robust policies and procedures to ensure effective oversight in this critical area.

Personal financial dealings – Beneficiary status and estate bequests (2.5.8)

The Investment Dealers we represent generally agree with the proposed addition of a restriction prohibiting Approved Persons and employees from accepting beneficiary status or bequests from a client's estate, except where the client is an immediate family member, and with the additional requirements of a disclosure and written approval by the Dealer Member in the case of Associate Portfolio Managers, Portfolio Managers, Investment Representatives, and Registered Representatives.

We agree that in theory, referring to a client's "immediate family" rather than a "Related Person" ensures the exemption targets common estate-related circumstances that do not typically pose conflict-of-interest risks, while providing clarity and precision with respect to the application of the rule.

However, we understand that the Ontario Securities Commission (OSC) recently lost a case against a former representative (unrelated to the client) who was named by the client as a beneficiary and note the precedent this sets is clearly at odds with the proposed restriction.

As previously stated, the Investment Dealers we represent support these provisions but emphasize the importance of them having the discretion to grant approvals on a case-by-case basis when an Approved Person or employee is named as a beneficiary, recognizing that certain situations may warrant such consideration. For example, when named as beneficiary by a good friend, or by a relative that is not considered ''immediate family.''

As previously mentioned, some Investment Dealers hold a different perspective, asserting that such matters should not be formally enshrined in regulation. Instead, they argue that these principles—primarily concerning conflicts of interest—should be carefully assessed and managed by each firm individually. It is incumbent upon Investment Dealers to establish and enforce robust policies and procedures to ensure effective oversight in this critical area.

We understand that questions may arise as to whether a beneficiary's status was secured through undue influence. However, as noted above, some of the Investment Dealers we represent firmly believe that such matters should not fall within the purview of regulatory bodies. Instead, any concerns regarding potential undue influence by an employee or Approved Person should be addressed by the executor, other beneficiaries, or the deceased's relatives through the courts. Imposing regulatory restrictions in such cases risks undermining the client's genuine final wishes.

Referral arrangements (2.5.9)

CIRO's proposal states the following with respect to aligning the referral arrangement provisions:

> We propose to adopt a modified version of the MFD Rule provisions relating to referral arrangements. The IDPC Rules do not have similar specific provisions, which are contained in sections 13.7 through 13.10 of National Instrument 31-103. Given the frequent use of these provisions by all Dealer Members, we believe they should be included in the DC Rules.

The Investment Dealers we represent have reviewed section 3114 and do not oppose its inclusion in the consolidated Rulebook.

Client identification - Trusts or corporations (2.6.2)

We agree with the proposal to adopt the IDPC approach to disclosure, which requires that in the case of a trust, the names and addresses of all trustees, known beneficiaries, and settlors of the trust be disclosed, as well as the provision requiring the names of all directors of a corporation to be disclosed within 30 days of opening the account.

This heightened standard enhances transparency and accountability by ensuring that all relevant parties with a significant interest or role in the trust or corporation are identified early in the relationship. The broader disclosure requirements are essential for mitigating potential risks, such as conflicts of interest, fraud, or money laundering, by providing a clear and comprehensive understanding of the parties involved.

Furthermore, aligning these standards across all Dealer Members ensures consistency and fairness while bolstering the integrity of the financial system. These measures underscore the importance of robust due diligence and align with best practices for fostering trust and protecting the interests of all stakeholders in the investment industry.

Account opening policies and procedures – Opening new client accounts (2.6.4)

We agree with the proposal to adopt the IDPC provisions that clearly outline the required elements for Dealer Members' policies and procedures related to account opening.

The Investment Dealers we represent also support the adoption of a modified rule limiting account activity in cases where a supervisor does not approve a new account after the initial trade, to the following: liquidating trades; paying out funds; or delivering investment product positions to the client. Some of the Investment Dealers we represent will not be impacted, as they do not allow any activity until the account has been approved to be opened.

Consolidating related regulatory requirements into a single provision enhances clarity, reduces ambiguity, and promotes regulatory certainty, which benefits Dealer Members by streamlining compliance efforts and ensuring consistency across the industry. Additionally, the modified rule offers a balanced and practical approach. This ensures that client interests are prioritized and helps safeguard against unauthorized or unapproved account activities.

By harmonizing and improving upon existing rules, these changes demonstrate a commitment to clear, efficient, and client-focused regulatory standards, bolstering confidence in the compliance framework and fostering a robust investment environment.

Accepting specific account types (2.6.7)

CIRO's proposal states the following with respect to provisions relating to the acceptance of specific account types:

> We propose to adopt a modified version of the IDPC Rule provisions relating to the acceptance of specific account types that can be offered by investment dealers, namely derivatives accounts, discretionary accounts, and managed accounts. These changes are meant to clarify the current IDPC Rule drafting, and we expect that they will not impose an additional burden on investment dealers.
>
> The derivatives disclosure statement required to be provided by an investment dealer to clients with derivatives accounts under DC Rule section 3251 is included in Appendix 5.

The Investment Dealers we represent do not object to the amendments proposed in regard to specific accounts for their types of business. We believe that mutual fund dealers should not be allowed to open margin accounts until a CFO can oversee margin requirement calculations. We will provide further comments on this topic when the proposal for Phase 5 is issued.

Suitability determination (2.8)

The Investment Dealers we represent agree with the proposal that all Dealer Members should have the option to categorize clients as "institutional" or "retail." This choice does indeed enable flexibility. We therefore support the proposal to retain the IDPC Rule suitability determination provisions that distinguish between both types of clients (retail and institutional).

Retail client suitability determination requirements (2.8.1)

CIRO's proposal states the following with respect to retail client suitability determination requirements:

> We propose to retain the IDPC Rule provision which requires that a Dealer Member must determine whether it is suitable for a retail client to continue having an account with the Dealer Member. This determination is a key element of ongoing suitability responsibilities. We also propose to include the IDPC Rule provision which requires that the scope of products, services and account relationships to which the retail client has access to within the account, are suitable for the retail client.
>
> In addition, we propose to adopt the approach in the IDPC Rules, which requires Dealer Members to respond to specific events or changes in the client's account within a "reasonable time".

We agree with maintaining the IDPC Rules with respect to the suitability obligations outlined above for all CIRO Dealer members.

Unsuitable investments in a client account (2.8.2)

CIRO's proposal states the following with respect to Dealers' advice and recordkeeping obligations when making suitability determinations:

> We propose to adopt a modified version of the MFD Rule provision which specifies that if, after performing a suitability determination, a *Dealer Member* has determined that an action taken for a client does not meet the suitability determination requirements, the *Dealer Member* must advise the client, make recommendations to address any inconsistencies, and maintain evidence of such recommendations. This provision addresses situations where the unsuitable investment may have not arisen from the action of the *Dealer Member* or *Approved Person*, such as the transfer-in of investment products. We expect that this represents existing practice and will not impose an additional burden on investment dealers.

We confirm that this does indeed represent existing practice at the *non* Order Execution Only (OEO) Investment Dealers we represent, and we do not oppose the provision.

However, we note this would create an additional burden for Investment Dealers and they would need time to adapt their policies and procedures accordingly.

We also suggest clarifying in the Rules the sections that do not apply to OEO Dealers, beyond section 3241 currently in the rules, as no new requirements for OEO Dealers should be included in the consolidation project.

Suitability of leverage strategies (2.8.3)

CIRO's proposal states the following with respect to Dealers' obligations to assess the suitability of leverage strategies for clients:

> We propose to adopt a modified version of the MFD Rule provisions requiring Dealer Members to have policies and procedures: (1) to assess the appropriateness of leverage strategies, (2) that set out the process for approval for such strategies, and (3) set out related documentation requirements.
>
> This requirement will ensure Dealer Members are mindful of and have procedures to manage the risks inherent in retail clients using borrowed funds to invest. Note that the IDPC Rule Guidance on Borrowing for Investment Purposes will be retained and may be supplemented by the more detailed provisions in the MFD Rules.

The Investment Dealers we represent do not believe that adding the two provisions below to section 3402 are required as they are already covered through the suitability and margining provisions:

> (6) A Dealer Member must have policies and procedures to assess the appropriateness of a retail client's leverage strategies and set out the process of approval of such strategies, and related documentation requirements.
>
> (7) The policies and procedures established by the Dealer Member under subsection 3402(6) must be effective in detecting and preventing leverage strategies that are unsuitable.

As CIRO notes above, Investment Dealers already comply with CIRO's Guidance on Borrowing for Investment Purposes, and the proposal to adopt a modified version of the MFD Rule provisions described above would impose an additional burden on them, above and beyond CIRO's guidance, without offering any additional protection or value to investors.

Investment Dealers currently ask about borrowed funds on their new account application forms and obtain comments from account advisors at the same time. Dealers believe that in light of this, requiring them to review and approve the client's entire leveraging strategy seems an over-reach.

If the provisions were to be imposed on Investment Dealers, they would certainly require time to adapt their policies and procedures accordingly.

Advertisements, sales communications and client communications (2.10.1)

The Investment Dealers we represent support the proposal to adopt the IDPC Rule's approach towards review and approval of advertisements, sales communications, and client communications, as well as the retention period and documentation to be retained. However, we do not believe that the additional requirement ("an image such as a photograph, sketch, logo or graph which conveys a misleading impression") is needed as it is already included in the non-misleading advertisement and communication requirement that Investment Dealers comply with. Therefore, this would not be an additional requirement for Investment Dealers, but they would still incur an increased burden in having to amend their policies and procedures without any corresponding additional protection or value being provided to investors.

Supervision (2.11)

Delegation of supervisory tasks (2.11.1)

The Investment Dealers we represent agree with CIRO's proposal to adopt the IDPC Rule approach to delegation ''which permits delegation with specific prohibited exceptions itemized throughout the rules."

The proposal also states the following:

> In alignment with our proposed changes to our general delegation provision, which would allow a Dealer Member to automate tasks or activities where our rules require an individual to perform a specific function, we are proposing a new provision to ensure the Dealer Member informs the relevant Supervisor of specific tasks or activities that have been automated, ensure the Supervisor understands how the automated tasks and activities work, and ensure proper performance of the related function in compliance with CIRO requirements.

We do not oppose the provision regarding automated tasks. However, CIRO must recognize that while supervisors may comprehend the principles behind an automated task, they may not possess the expertise to replicate the intricate technological functions that underpin it.

Governance document (2.11.03)

We agree that mutual fund dealers should adopt the IDPC Rule requirement to file the material changes made to a Dealer Member's governance document with CIRO.

CIRO must be provided with the most up-to-date information regarding the organizational structures and reporting relationships of Dealer Members in order to protect the investing public.

Supervision of shared office premises (2.11.4)

CIRO's proposal mentions the following:

> We propose to adopt the IDPC Rule which requires the Dealer Member to have policies and procedures that specifically address the supervision requirements to ensure compliance with the requirements related to shared office premises, as contemplated by DC Rule sections 2216 through 2219. Mutual fund dealer compliance with these sections was proposed to be adopted for all Dealer Members in Phase 3.

We wish to reiterate our comments submitted in Phase 3 of the Consolidation Project regarding Rule 2217 - Signage and Disclosures:

> The Proposed CIRO Rule states:
>
> > (1) An *Investment Dealer Member* using *shared office premises* must have appropriate signs and disclosure which differentiates the entities sharing the premises.
> >
> > (2) The legal names under which the *Investment Dealer Member* and each of the other entities in the *shared office premises* operates must be clearly displayed in a prominent location, such as the office entrance door or reception area.
>
> The CIRO Commentary states:
>
> > The MFD Rules do not have equivalent requirements and it is far more common for mutual fund dealers affiliated with banks or insurance companies to use the branch network/office premises of their affiliate bank/insurance company to meet with clients.
> >
> > […]
> >
> > We are not proposing that this requirement apply to mutual fund dealers sharing office premises with other regulated Canadian financial service entities as we believe:

- the burden associated with requiring this disclosure at each branch/office location where there are only one or a small number of mutual fund dealer advisors present would be significant, and
- prominently disclosing the mutual fund dealer name in a branch/office with predominantly bank/insurance company employees would likely do little to address potential client confusion as to which company they are dealing with and may in fact increase confusion.

> The Investment Dealers that we represent are seeking further clarification on the expectations specifically pertaining to proposed Rules 2217 (1) and (2). Investment Dealers are unable to discern the underlying risk that justifies imposing this Rule on them while exempting mutual fund dealers. We propose that the rationale for exempting mutual fund dealers should equally extend to Investment Dealers and dual-registered Dealers.

Supervisory Responsibilities (2.11.5)

We agree with the proposal to adopt the IDPC Rule provision which sets out the Dealer Members' requirement to appoint Supervisors and alternate Supervisors as required, to supervise account opening and activity, and establish policies and procedures in respect of account supervision by appointing appropriate Supervisors.

We also agree, consistent with the IDPC Rules, that CIRO should require that all policies established or amended have supervisory approval (rather than "senior management" approval, as required by the MFD Rules).

Account supervision policies and procedures (2.11.6)

We agree with the proposal to adopt the IDPC Rule provision relating to account supervision policies and procedures. We also support CIRO's view that "it is appropriate to apply these provisions to all Dealer Members to ensure the integrity of the markets and client records are addressed."

Daily and monthly trade supervision (2.11.7)

We agree with the proposal to adopt the provisions in the IDPC Rules with respect to daily and monthly trade supervision, and also support the following excerpt from CIRO's proposal:

> We also propose to adopt the MFD Rules requirement that mutual fund dealers specifically designate for supervision purposes, leveraged accounts, registered accounts and accounts where the Registered Representative has full or partial control or authority over the financial affairs of the client who is a Related Person of the Registered Representative. These were areas identified as representing higher risk for mutual fund

> dealers, so the separate requirements for mutual fund dealers and investment dealers were retained in order to manage the regulatory risk for mutual fund dealers while not creating additional, unnecessary compliance burdens for investment dealers.

Supervision of new Registered Representatives and Investment Representatives (2.11.8)

We agree with the proposal to adopt the provisions in the IDPC Rules, which require Dealer Members to closely supervise Registered Representatives and Investment Representatives dealing with retail clients for six months after approval, as set out in the Registered Representative/Investment Representative Monthly Supervision Report.

Supervision of specific account types (2.11.9)

CIRO's proposal states the following with respect to Dealer Member obligations to supervise specific account types:

> We propose to adopt a modified version of the IDPC Rule provisions relating to the supervision of specific account types that can be offered by investment dealers, namely derivatives accounts, discretionary accounts, and managed accounts. These changes are meant to clarify the current IDPC Rule drafting, and we expect that they will not impose an additional burden on investment dealers.

The Investment Dealers we represent do not oppose the proposed modified version above.

CIRO approvals and regulatory supervision of Approved Persons and Membership (2.12.1)

CIRO's proposal states the following regarding streamlining the decision review process for regulatory decisions:

> …Given the above proposals (namely, that all regulatory decisions will follow the same decision review process), we propose to make DC Rule section 9203 applicable to all regulatory decisions.
>
> As a result, various repetitive clauses within specific IDPC Rules (such as IDPC Rules subsections 9208(2), 9208(3)) that reference this same process will be deleted.

We agree that CIRO should apply the decision review process, including the changes described in the proposal, to mutual fund dealers. We also support CIRO's view that the same decisional powers, procedures, and safeguards should apply across Dealer Members.

We have included further comments from the Investment Dealers we represent in our CIFIC Responses to the CIRO questions included in the proposal.

Procedures for opportunities to be heard before decisions on approval and regulatory compliance matters (2.12.2)

CIRO's proposal states the following:

> IDPC Rule 9400 sets out the procedures for opportunities to be heard before CIRO Staff, a Senior Decision Officer, or the Board. Opportunities to be heard by a Senior Decision Officer are dealt with in Part A and opportunities to be heard by the Board are dealt with in Part B of IDPC Rule 9400.

The Investment Dealers we represent believe that IDPC Rule 9400 should indeed apply to all Dealer members. We also agree with the following clarifications to the language set out in IDPC Rule 9400:

- Change the title for proposed DC Rule 9400 to 'Procedures for opportunities to be heard before Senior Decision Officers or the Board',
- Under IDPC Rule 9400, the current definition of Registration Staff refers to both registration employees as well as employees who 'conduct compliance examinations under Rule 9100.' To clarify that both registration and compliance staff of CIRO are captured under this defined term, we propose to change the term to 'Registration or Compliance Staff',
- IDPC Rule sections 9405, 9412, 9413(1), 9415 and 9417 refer to written notice and/or reasons. We have proposed clarifying language to better describe those requirements.

Application to mutual fund dealers

CIRO's proposal states the following with respect to the applicability of the regulatory decisions and review regime:

> Given the primary objective of rule harmonization, and given the rationale set out in this Bulletin under section 2.3 (wherein we propose that the Approved Person regime in the IDPC Rules should generally be extended to mutual fund dealers, albeit with some qualifications), we propose to extend the regulatory decisions and review regime that support the Approved Person and Membership processes to be applicable across all Dealer Members, including mutual fund dealers.

We agree with CIRO's objective of rule harmonization and agree that the regulatory decisions and review regime should also apply to mutual fund dealers.

CIRO'S SPECIFIC QUESTIONS REGARDING PHASE 4

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? 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?

CIFIC Response: The Investment Dealers we represent do not oppose the proposed definition.

Question #2 - Applying CFO requirements to mutual fund dealers
We recognize that requiring mutual fund dealers to appoint a CFO may be a significant material change to the governance and resourcing requirements of many such 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.

CIFIC Response: The Investment Dealers we represent strongly believe that mutual fund dealers, regardless of their size, must adhere to the same rules as Investment Dealers in order to protect the investing public. Having a CFO accountable for a Dealer's financial statements fosters strong governance and sound financial practices.

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

To avoid an overly burdensome approval process, we proposed that mutual fund dealer sponsored individuals that are registered in the appropriate registration category under securities legislation should be automatically approved as an Approved Person under the DC Rules.

However, an important distinction exists between the CCO and Dealing Representative categories, which rely on a review process by relevant securities regulatory authorities and minimum proficiency requirements to obtain registration, versus the UDP, which is also reviewed but not required to meet minimum proficiency requirements.

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?

CIFIC Response: The Investment Dealers we represent strongly believe that in order to protect the investing public, mutual fund dealers must adhere to the same rules as Investment Dealers with respect to proficiency requirements and the Approved Person regime for UDPs.

A reasonable timeframe must be provided for mutual fund dealer UDPs to complete the proficiency requirements. We submit that any UDP unable to complete the requirements in a reasonable timeframe would not, in the interests of investor protection, be fit to assume such an essential role.

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

With respect to the categories of Approved Persons of mutual fund dealers that are not subject to a registration requirement under securities legislation, we have generally proposed these Approved Persons conform to CIRO's Approved Person regime and corresponding proficiency requirements. Our view is that these roles have significant oversight responsibilities that justify this potential additional regulatory burden on mutual fund dealers.

However, the same rationale may not apply for Directors. We expect that directors of mutual fund dealers who were not previously subject to proficiency requirements may not be 'actively engaged' in the activities of the business of the mutual fund dealer and do not play an operational, oversight nor managerial role in the dealer's business. Under the current proposals in Phase 4, these mutual fund dealer Directors would be subject to a CIRO approval process and net-new proficiency requirements.

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.

CIFIC Response: The Investment Dealers we represent strongly believe that mutual fund dealer Directors should be subject to a CIRO approval process and net-new proficiency requirements. A reasonable timeframe must be provided for these Directors to complete the proficiency requirements. We believe that any Director unable to complete the requirements within a reasonable timeframe would not be fit to keep such a title.

We also believe that allowing existing Directors of mutual fund dealers into the Approved Person regime without being subject to a CIRO approval process could undermine investor confidence, especially in light of the lack of rigorous proficiency requirements for mutual fund dealer Directors under the current MFD Rules.

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

We recognize that we have proposed significant changes, including net-new Approved Person categories and corresponding proficiency obligations, to the Approved Person regime for mutual fund dealers. As a result, existing Approved Persons sponsored by mutual fund dealers, as well as individuals who are not currently considered Approved Persons but will be caught by the proposed DC Rules, may be required to attain additional proficiencies. This may be a time-consuming process and might result in individuals incurring additional professional expenses.

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?

CIFIC Response: The Investment Dealers we represent strongly believe, as proposed in Phase 4, that mutual fund dealer ''Approved Persons'' should be subject to the new proficiency requirements. A reasonable timeframe must be provided for these future Approved Persons to complete the proficiency requirements, and we believe any "Approved Person" who is unable to complete them within a reasonable timeframe would not be fit to keep such a title or be approved by the regulators.

We also believe that allowing current ''Approved Persons'' of mutual fund dealers to be considered "Approved Persons" under the new regime without being subject to an approval process could undermine investor confidence, especially in light of the lack of rigorous proficiency requirements for Approved Persons under the MFD Rules, and, as such, we would not support an exemption for these individuals.

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?

CIFIC Response: The Investment Dealers we represent generally believe that, in theory and under normal circumstances, an Approved Person or an employee should be prohibited from accepting a position of power of attorney, trustee, executor or otherwise having full or partial control of the affairs of a client.

However, we believe there are circumstances in which accepting such a position is justified, as outlined in the proposal. For instance, an Approved Person managing a discretionary account for an investor may be considered to hold a power of attorney, as they control the client's account.

Some Dealers we represent therefore support these provisions but also believe it is essential for them to have the discretion to approve such activities on a case-by-case basis when needed. This approval would require a thorough analysis to ensure that the investor remains fully protected and is not adversely affected.

Other Investment Dealers we represent believe that such matters should not be formally enshrined in regulation. Instead, they argue that these principles—primarily concerning conflicts of interest—should be carefully assessed and managed by each firm individually, and that it is incumbent upon Investment Dealers themselves to establish and enforce robust policies and procedures to ensure effective oversight in this critical area.

We also note that a Dealer may want to set up an affiliate to provide trust services. Such trust services often expand power of attorney or trustee-type roles to many executive members, meaning the Investment Dealer could have executives who do not have client interactions but are subject to Business Conduct Rules that are intended to protect clients. The Investment Dealers we represent are seeking clarification from CIRO in regard to this.

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?

CIFIC Response: The Investment Dealers we represent generally support the proposed restriction prohibiting Approved Persons and employees from accepting beneficiary status or bequests from a client's estate, except when the client is an immediate family member. We also agree with the additional requirements for disclosure and written approval by the Dealer Member in cases involving Associate Portfolio Managers, Portfolio Managers, Investment Representatives, and Registered Representatives.

However, we recognize, as mentioned above, that the Ontario Securities Commission (OSC) recently lost a case against a former representative who was named as a beneficiary by a client to whom they had no familial relation, setting a precedent at odds with the proposal. As previously stated, some of the Investment Dealers we represent support these provisions but strongly believe they should have the discretion to grant approvals on a case-by-case basis when an Approved Person or employee is named as a beneficiary, as certain circumstances may justify such consideration. For instance, a client may wish to name a close friend or a relative who does not fall under the definition of "immediate family" as defined under section 2.5.8.

As previously mentioned, some Investment Dealers hold a different perspective, asserting that such matters should not be formally enshrined in regulation. Instead, they argue that these principles—primarily concerning conflicts of interest—should be carefully assessed and managed by each firm individually, as it is incumbent upon Investment Dealers to establish and enforce robust policies and procedures to ensure effective oversight in this critical area.

While we acknowledge concerns regarding the potential for undue influence in such situations, these Investment Dealers believe that these matters should not fall within the purview of regulatory bodies. Instead, any disputes or allegations of undue influence should be addressed through the courts by the executor, other beneficiaries, or the deceased's family members. These Investment Dealers argue that imposing regulatory restrictions in these cases risks undermining a client's genuine and deliberate final wishes.

Conclusion

We commend CIRO for its efforts to harmonize the two sets of rules by balancing the goals of safeguarding the investing public while not increasing the burdens on market participants.

Thank you for considering our comments on this important proposal.

As always, we are available to discuss the content of this submission further, address any concerns you may have, or provide additional information as needed. Your feedback is invaluable to us, and we are committed to ensuring that we all achieve our objectives effectively and efficiently.

Please feel free to contact me at annie@cific.co with any questions, comments, or to schedule a call to discuss any aspects of the letter or explore potential next steps. We look forward to our continued collaboration on this matter.

Sincerely,

A.Sinigagliese

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