

February 26, 2025

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Member Regulation Policy  
Canadian Investment Regulatory Organization  
Suite 2600  
40 Temperance Street  
Toronto, Ontario M5H 0B4

Dear Sirs and Mesdames:

**RE: CIRO Consultation on Non-tailored Advice in the Order Execution Only Channel**

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National Bank Direct Brokerage (NBDB) is a division of National Bank Financial Inc., a member of the Canadian Investment Regulatory Organization (CIRO), which provides order execution only (OEO) services. NBDB welcomes the opportunity to provide feedback on CIRO's consultation on non-tailored advice in the OEO channel.

The following are our comments on the specific questions set out in the consultation.

**Question #1 – Notifications and alerts**

- (a) Are there particular products or services in respect of which you think OEO Dealers should be encouraged to issue alerts or other proactive information?
- (b) What consistent criteria could OEO Dealers use in choosing to issue alerts or other proactive information?

While we agree that the protection of Canadian investors is crucial, we disagree with the proposal. Considering that OEOs are not allowed to recommend securities or categories of securities to clients, OEOs should not notify clients about securities or categories of securities they should not trade or should pay particular attention to, regardless of the reason, i.e., their risk, volatility, etc. Since OEOs do not perform suitability assessments, there is no reason to indicate to clients which securities to trade or not to trade.

Under the regulations, OEOs are subject to product due diligence obligations. When securities are approved by OEOs and offered to clients via their platform, it is the responsibility of self-directed investors to inform themselves about these securities before trading them. Disclosure documents exist precisely to provide all the required information to the investor, including the risks associated with the product. In our opinion, the issuers' disclosure obligations in these documents meet the need to proactively communicate information. Here is an example of risk disclosure indicated in a fact sheet: *Unlike traditional ETFs, or even other leveraged and/or inverse ETFs, these leveraged and/or inverse single stock ETFs track the price of a single stock rather than an index, eliminating the benefits of diversification.* Therefore, we believe that the objective of adding alerts, which is to protect investors, is already addressed by existing regulatory obligations.

Furthermore, there are numerous imponderable factors in the markets that make it unrealistic, in our view, to require OEOs to issue alerts and notifications to clients. It may seem simple to require dealers to determine the risk level of a particular type of investment or security, such as a leveraged ETF cited in the example above. On the other hand, it is entirely unpredictable to determine in advance which security and when it might, for example, become a "meme stock," such as GameStop. There are several tools that can provide investors with a rating on securities. Among these tools, many providers use recognized financial analysis techniques from reliable sources, and the results are tested by finance experts. Using such tools not only helps investors make more informed decisions but also helps them develop their knowledge by exposing them to the criteria underlying the rating of each security. In our opinion, we should encourage investors in this direction, or at least offer them this opportunity, rather than issue alerts or notifications.

### **Question #2 – Self-help tools**

- (a) Specific tools. Are there any specific tools or services you believe should be included or excluded from the list of non-tailored advice?
- (b) Model portfolios. The current guidance contemplates model portfolio tools that are “limited to class of investor, asset class, industry sector and/or time horizon”. Model portfolios that reference specific securities are not contemplated. Would you support allowing model portfolios that do reference specific securities, providing no commendation is made by the OEO dealer based on client information?
- (c) Self-assessment tools. The current guidance does not contemplate OEO dealers providing tools that help clients determine what class of investor they are. Would you support allowing OEO dealers to provide self-assessment tools?
- (d) Filters. OEO Dealers provide their clients with tools for filtering the investments available on their platforms (e.g., large cap Canadian equities or TSX 60 index tracking ETFs). Would you impose limits on how specific such tools can be made (e.g., narrowing down large sets of investments such as those in the example above by price, performance or other criteria)?
- (e) Combining tools. What is your opinion on the potential effects of combining tools of various kinds (e.g., if a client uses each of the following in succession: a self-assessment tool, an asset allocation tool, a securities filter and a rebalancing tool)?
- (f) Limited client-specific information. Should there be greater allowance for the use of limited client-specific information that does not include a recommendation and is not based on KYC information? For example, in situations where a new client has funded their account but has not made any investments after a certain period, would it be appropriate to reach out with educational information about the benefits of investing some or all of their cash holdings?

Like regulators, we share the goal of strengthening Canadian investors' confidence when investing for their future. In this regard, we believe that OEOs should not only provide transactional services to self-directed investors via access to an online trading platform. OEOs must be able to offer complementary services to investors to help them manage their portfolios and guide them in achieving their financial goals. To do this, OEOs must have the opportunity to offer a wide range of tools to clients to enable them to make informed decisions. As important industry participants,

OEOs have the expertise and means to evaluate the service offerings of tools available on the market, rather than leaving self-directed investors confronted with a plethora of more or less reliable tools and information.

Considering the constant and growing evolution of technology and the creation of new investment products, we believe it would be more appropriate to approach the permission to offer tools on a principle-based basis rather than attempting to develop a list of admissible or non-admissible tools. Based on the principle that the tool or information provided to clients is not considered a recommendation, the tool or information should be accepted. We elaborate below our opinion on several aspects to support this point.

We believe that a tool that displays different scenarios based on data chosen by the client, for example, the choice of security, the prospect of a bullish or bearish market, the search for income, and others, should not be considered a recommendation. This type of tool allows clients to better understand the potential impacts of a decision based on different trading scenarios. Demonstrating results based on various trading simulations, different compositions of fictitious portfolios, or others, constitutes, in our opinion, a means of enriching clients' knowledge. Beyond the help these tools can provide to clients in their decision-making, they also have an educational character.

Regarding the offer of model portfolios composed of specific securities, we believe that self-directed investors should be able to benefit from such an offer, just like wealthier clients who can benefit from such products through the services of an investment advisor or portfolio manager. The enthusiasm of investors for online brokerage is not solely due to the lure of profit or the search for lower costs. Many investors do not have or no longer meet the asset thresholds required to obtain advisory services. These thresholds are constantly increasing, and clients must turn to other alternatives such as non-advisory services. OEOs must therefore be able to offer diversified investment solutions to these investors. Model portfolios represent an interesting type of investment product for which greater accessibility could be beneficial to a larger number of investors. If the model portfolios are not personalized, i.e. adapted according to each client's information, and that clients choose the portfolio in which they want to invest themselves, we are of the opinion that this does not constitute a recommendation or discretionary management, and this type of product should be allowed.

The guidance clearly indicates to OEOs that self-assessment tools are prohibited because they are considered personalized information. However, we do not see how helping a person determine their investor profile represents a recommendation. Considering that most financial institutions have such tools and that they are easily accessible by conducting a simple internet search, we do not understand what justifies such a prohibition. Moreover, it should be noted that the AMF and CIRO provide self-assessment tools to the public on their website: [Your investor profile | AMF](#), [Investor Questionnaire | Canadian Investment Regulatory Organization](#). As indicated in the introduction to the call for comments, self-directed investment is booming. Wouldn't it be more judicious in such a context and with the aim of protecting investors to help them determine their profile so that they can then orient themselves towards products that best suit their situation?

Moreover, it should be noted that the terms personalization and recommendation are not synonyms. Providing personalized information to a client does not necessarily represent a recommendation. The guidance regarding the offer of personalized information seems too restrictive to us. The evolution of artificial intelligence combined with powerful tools could help investors. In addition to tools that provide a rating for each security, as indicated in our response to question 1, there are now tools that would allow OEOs to provide their clients with all financial publications on a security they own or a security they are interested in. Unlike all the information circulating on the internet via influencers or anyone else, this type of tool is designed by professionals using financial information from reliable sources. Since it is personalized information, we refrain from offering such tools that would rightly be relevant for investors to make informed decisions, rather than relying on opinions expressed on blogs and others. Nowadays, the quality of information is not the only danger investors face; information overload also represents a significant risk. Many investors may feel overwhelmed by information overload and the speed of information transmission. By providing clients with information based on their interests, they would, in our opinion, be better equipped to manage their portfolios.

We believe that the way and means by which the tool or information is provided to clients are superfluous notions in the current guidance. For example, whether it is actively provided to clients or simply made available to them should not be addressed. On the one hand, the guidance indicates that a tool or information actively provided to clients is more likely to be considered a recommendation. On the other hand, the guidance indicates that some tools, even when only made available to clients, are inherently unacceptable. Therefore, to avoid any confusion, we should focus on determining whether it is a recommendation: does the tool or information dictate to clients which security or category of securities to trade? Moreover, if pushing a tool or information to clients does not encourage them to trade more, solely to increase the broker's revenue, so long as there is no conflict of interest, the way of offering the tool or information is not, in our opinion, an issue.

As mentioned earlier, based on the principle that the tool or information provided to clients is not considered a recommendation, the tool or information should be accepted. In this context, we also believe that it is not useful to add directives regarding the filters allowed in each tool or the permitted combination of tools. This level of detail would only amplify, in our opinion, the confusion regarding the interpretation of the guidance.

### **Question #3 – Finfluencers**

Some CIRO OEO Dealers have entered into referral arrangements with Finfluencers and in certain cases have integrated their trading platform with the third-party platform (e.g., "Trade Now" functionality that provides the ability to trade directly through the third-party platform).

What are your views on this practice and to what level of initial due diligence and ongoing monitoring should be required on the part of the OEO Dealer?

We believe that any client referral agreement concluded with a third party, whether influencers or others, and any association with a tool or application provider, whether integrated or not, requires

initial due diligence of the third party as well as ongoing monitoring. As long as there is involvement from the broker, they should ensure compliance with regulations at all times to maintain investor confidence and the industry's reputation.

**Question #4 – Copy trading**

- (a) Should OEO Dealers be allowed to provide their clients with "copy trading" functionality that provides the ability to automatically replicate the trades of other investors?
- (b) What measures can be implemented to ensure that copy trading is used in a way that is beneficial to investors?

To some extent, this proposal seems riskier for investors. Copying or imitating another person's investment strategy could create a false sense of confidence in an individual who may not necessarily have expertise in securities, who is not in the same financial situation, nor has similar financial goals. As a result, the investor may not take the time to conduct their own research, which could lead them to trade securities that may not be suitable for them. More details about this type of feature would certainly allow us to take a position on this issue.

**Question #5 – Delivery of tools and information**

Should the guidance distinguish information and tools provided directly on OEO Dealer websites or by email or made available through apps or social media sources?

As mentioned in response to question 2, we believe that the means should not be a factor to consider. If the tools or information come from the broker or are associated with them, the same rules should apply. We believe, for example, that there is no need to be more restrictive if the tool is integrated into the broker's platform. The fact that the tool is integrated into the platform only simplifies its use by the investor. A recommendation remains a recommendation whether it is available or published on a trading platform, a website, an email, or on social media. Conversely, what is not a recommendation does not become one based on its means of communication.

We thank you for taking the time to consider our opinions regarding this consultation. We would be pleased to discuss our comments further at your convenience.

Sincerely,

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