



Monday, February 24, 2025

By email: memberpolicymailbox@ciro.ca

Member Regulation Policy
Canadian Investment Regulatory Organization
Suite 2600
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Re: CIRO's Request for Comments on Non-tailored Advice in the Order Execution Only Channel (24-0367) issued on December 13, 2024

The **Canadian Independent Finance and Innovation Counsel (CIFIC)** appreciates the opportunity to provide comments to CIRO regarding its Request for Comments on Non-tailored Advice in the Order Execution Only (OEO) Channel.

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.

Much Needed Consultation

As per the CIRO Notice:

According to the 2024 CIRO Investor Survey, published on June 4, 2024, four in ten DIY investors opened their first DIY account within the last three years. The survey also revealed that DIY investors are considerably more likely than other investors to utilize social media, internet forums or financial influencers (Finfluencers) as sources of investing information and advice.

We welcome this consultation, as these indications of the growth of the OEO channel and client utilization of non-traditional sources of information and tools, make this dialogue a pressing need for the protection of Canadian investors.

The CIRO request for comments also mentions the following:

This initiative aims to ensure that such advice does not diminish the value of established, robust advisory channels, thereby preventing any potential confusion between the two. Our objective is to enhance investor protection by ensuring access to high-quality information from verified sources and allowing the use of tools designed to help investors make better investment decisions.

CIFIC and the Investment Dealers it represents (both OEO Dealers and advisory Dealers) agree that self-directed investors must have access to high-quality information and tools; we also support the objective of preventing potential confusion between the OEO and the advisory channel.

Non-tailored “Advice”

The introduction of the request for comments states the following:

The Canadian Investment Regulatory Organization (CIRO) is evaluating the limitation of **advice** [emphasis added] in the order execution only channel.

Firstly, we would question whether the term “advice” should be used at all in regard to OEO Investment Dealers, even if qualified by the words “non-tailored,” or if it only serves to introduce potential confusion for investors.

The Investment Dealers we represent do not believe that the tools provided to do-it-yourself (DIY) or self-directed clients, such as notifications, alerts, research, data, and other delivered information should be referred to as “advice.”

Furthermore, we feel the existing disclosures provided to OEO clients are very clear: the client controls the investment decisions; and OEO firms are not providing recommendations or advice. The OEO channel is and has been complying with CIRO’s “Recommendation Prohibition” in Guidance Note 3400-21-003 from 2021, which prohibits OEO Dealers from providing any recommendations, so CIRO’s reference to “non-tailored “advice”” may, unfortunately, introduce confusion with investors where there should not be any.

Our Primary Objectives in Answering this Request for Comments

While we could confine our response to the specific questions outlined in CIRO’s request for comments, the Investment Dealers we represent have, in the past, engaged in troubling discussions with regulators regarding the OEO business model.

To foster a clearer understanding and ensure the development of well-founded guidance, we believe it is crucial – even at this preliminary stage – to revisit certain past issues that resulted in unfavorable outcomes for both the industry and regulators. We are determined to avoid a recurrence of past missteps—where misguided guidance was issued, legal proceedings unfolded based on a flawed framework, and the regulator was ultimately forced to suspend sections in its own guidance. Such a cycle of uncertainty and disruption must not happen again.

These discussions, some of which took place years ago, have revealed a concerning ambiguity regarding the distinction between OEO channels and advisory channels from the perspective of the regulators. To mitigate potential misinterpretations in the forthcoming Guidance, we believe it is essential to reaffirm key facts about the OEO model and the tools OEO Dealers provide to self-directed clients.

We believe that addressing these nuances at this preliminary stage in the regulatory process will ultimately foster greater clarity and efficiency, benefiting both regulators and the industry in the long run. With this in mind, our comment letter not only responds to CIRO's specific questions but also analyzes the current Guidance.

Industry Position – Unchanged

The Investment Dealers we represent, which include both OEO and non-OEO Dealers, are of the same view as they were eight years ago when we (industry and regulators) were working on OEO Guidance. Many of our current concerns are similar to the concerns we provided to the Investment Industry Regulatory Organization of Canada (IIROC) at that time. We will reiterate some of these concerns here in the hopes that the regulators can properly clarify the difference between OEO Dealers and non-OEO Dealers in their regulatory framework. The line between the two models must no longer be blurred – for investors or regulators.

Key Industry Concerns for Self-Directed Investors - Online Tools and Information from Unauthorized and Unregulated Sources

The main concern of the Investment Dealers we represent is that if information is not made available on regulated OEO platforms, investors may be more likely to consult online tools, products, and information purported to be “educational” but actually containing inaccurate and misleading data and information, often from unreliable sources, in order to make their investment decisions.

If OEO Dealers have to limit the data, tools, research, and other information from reliable sources that they make available to self-directed clients, investors are put at risk. We believe, based on the wording of CIRO's request for comments, that the regulator agrees with us with respect to the necessity of reliable information and tools being offered to investors.

Tailored Information versus General Information

The CRO request for comments states the following:

...general information may be a recommendation if it could reasonably be **expected to influence an investor to make an investment decision**...[emphasis added]

Self-directed clients use the tools on OEO platforms to make investment decisions. The tools, therefore, may **“influence an investor to make an investment decision.”** This wording should be clarified as it could cause confusion, and any such confusion risks bringing both the industry and its regulators into disrepute, as we all experienced in the past with respect to the issuance of previous OEO Guidance.

Access to Tools and Information on OEO Dealer Platforms

Clients request tools and information from OEO Dealers in order to make educated investment decisions. Providing a wide range of documentation and products is to the benefit of any self-directed client. This is true whether these documents and products are used or completely ignored by clients.

Investment advisors have free access to the tools, information, and models needed to make proper recommendations to their clients: there is no reason self-directed clients should not have access to the same tools, to allow them to make informed investment decisions.

These tools must remain on the regulated OEO platforms, because without them there, investors may look to unreliable and misleading information to make their investment decisions, which could be extremely damaging for them, as well as for regulators.

It is also worth noting that not all OEO Dealers are alike, and not all OEO clients are alike. For example, many active OEO clients are sophisticated traders executing trades for short-term gains. These clients are more “traders” than “investors.” The value these individuals receive from trading technologies; tools; and information, may be just as important to them as the low-cost or free trade execution offered by the OEO Dealer.

On this point, we question whether CRO’s guidance and rules should explicitly define the term “investor” and adopt a broader interpretation - one that encompasses all clients with investment accounts, including those who primarily engage in trading rather than adhering to a “buy-and-hold” strategy.

The OEO Dealer's Role

The main role of an OEO Dealer is to provide clients with access to financial marketplaces at a low cost.

Clients turn to OEO Dealers in order to be fully in control of their investments. As it stands, OEO Dealers execute orders based solely on client instructions. No individual at the OEO Dealer is entering orders on behalf of a client. Even phone trades may only be entered into with the specific instruction of the client. As OEO Dealers do not provide advice or recommendations to clients, they represent a lower cost alternative to an advisory firm and fill the need that exists for investment services to be available to individuals who do not meet the minimum investment thresholds now required by most advisory firms.

Reasonable DIY Costs

OEO Investment Dealers can provide these execution services at a reasonable cost for two reasons:

1. they have invested in and leveraged technology to its fullest extent in order to automate the transaction process for the client; and
2. they are exempted from the suitability requirement and therefore do not provide recommendations to their clients.

Enhancing the Value Proposition for Investors

Over time, OEO Dealers enhanced their value proposition by incorporating educational resources as well as detailed tools and products which assist clients in making their investment decisions. The demand for these types of tools and resources has continually increased in parallel with the growth and adoption of the Internet itself.

Firms now compete in the marketplace based on how resourceful and client-friendly their tools and resources are. **OEO Dealers collectively feel that increasing the investor's knowledge level and providing valid information that keeps the client well-informed is in the best interest of both the client and the industry itself.** This view is also shared by the advisory Dealers we represent. We strongly believe that this development of new technology on OEO platforms aligns with CISO's mission of investor protection.

OEO Dealers continue to offer clients autonomous access to financial markets through sophisticated platforms, all while maintaining remarkably low costs and delivering significant value to investors.

Client Complaints – OEO Research and Tools

The Investment Dealers we represent think it is unlikely that CIRO has received a significant number of client complaints about the use of research and tools available on OEO Dealer websites or client portals. As previously stated, we believe the existing disclosures are clear: clients retain full control over their investment decisions, and OEO Dealers do not provide recommendations or advice. OEO clients are well informed about the OEO model, its characteristics, and its risks.

Investor (Client) Protection

We believe that an updated OEO Guidance must protect and assist retail investors. It certainly should not make a retail investor's ability to invest in capital markets significantly more challenging. We submit the following considerations with respect to protecting clients in the OEO channel:

- OEO Dealers provide many different tools to clients so they can make their own investment decisions. Limiting the range of tools available to clients through OEO Dealers would likely force clients into making these decisions without having access to all the information that would assist them to do so and without fully understanding products or account types.
- If OEO Dealers did not provide educational data and tools, investors might rely on inaccurate or misleading information from unreliable sources in order to make their investment decisions or even shift their assets to unregulated platforms.
- If the products and account types were to be limited based on the Know-Your-Client (KYC) information a client submitted, clients might be tempted to overstate their knowledge and experience at account opening in order to have access to a greater range of products. This opportunity to “game” the account opening process is something the industry would not be able to prevent as firms rely on customers’ self-reporting of their knowledge and experience.
- Without clear guidance, regulators risk OEO Dealers deciding to limit their product offering to low-risk products in order to decrease their exposure to potential liability. Offering only “plain vanilla” products to investors would clearly not be in the best interest of clients with more complex investment objectives.
- Investors that do not currently qualify for the “advice-giving” threshold of some advisory firms would possibly never qualify if the tools and information provided by the OEO Dealers were not there to help them increase their knowledge, and ultimately their investment wealth.
- Subjecting OEO Dealers to increased regulatory requirements would inevitably result in higher costs for investors since firms would need to create the necessary infrastructure to accommodate these. If costs were to increase, clients might once again turn to non CIRO-regulated solutions to meet their needs.

Cost of Potential System Changes

If major changes are made to the OEO business model through the upcoming updated Guidance, CIRO will need to closely examine the costs and burdens associated with any new required system changes. This could include additional training, time (for opening accounts and trading tasks), and possibly other costs associated with human intervention by OEO Dealer staff, if further regulatory burden is added.

Appropriateness Analysis

The Investment Dealers we represent recall conversations with the regulators surrounding conducting “appropriateness” analyses and would like to ensure further “appropriateness” requirements are not added to any forthcoming updated Guidance.

The Investment Dealers we represent believe that a determination of Products or Account Type by an OEO Dealer is analogous to providing advice or recommendations to a client, which runs counter to the recommendation prohibition for OEO firms.

To properly determine whether a product or account type is appropriate, a firm would have to determine the client’s investment objectives and risk tolerance. This would become very challenging in the absence of a face-to-face meeting. The Investment Dealers we represent are strongly opposed to the addition of any requirement to conduct appropriateness analyses, which would certainly blur the line between the OEO channel and the advisory channel.

We understand that CIRO is also “of the view that OEO Dealers need not conduct Product/Account Type appropriateness for a potential client, as it is consistent with a suitability-exempt model,” as mentioned in IIROC’s 2021 Guidance, but would like to remind the regulators of some historical questions regarding the problematic proposal of appropriateness with respect to OEO Dealers:

- Events may take place in a client’s life that would change the “appropriateness” evaluation performed by a firm: how could an OEO Dealer ensure the continued appropriateness of an account?
- What would happen to a client of an OEO Dealer who was using margin when the OEO Dealer deemed that to be inappropriate? Would the OEO Dealer be expected to sell the client out to return them to the correct level of “appropriateness”? (What say would a client have in these matters? What if they opposed the changes?)

There are innumerable challenges associated with an “appropriateness” test in the OEO business model, and our Investment Dealers continue to disagree with the introduction of any such requirements today, as they have historically.

Product Shelf Must be for All Clients

Approving particular products for particular clients would inevitably create more work for OEO employees and would therefore increase costs for clients who seek a low-cost alternative to advisory firms. It should be noted that typically, only non-exchange-listed products offered by an OEO Dealer have received approvals from an internal product committee, a due diligence committee, or similar.

We would like to note that any unclear Guidance could potentially increase the number of litigation cases, as we have seen in the past. For example, a client could potentially complain if a firm's "appropriateness analysis" meant that they were not allowed to trade "complex" products which provided a higher return than the "plain vanilla" products offered to them.

We remind CIRO that OEO Dealers do not currently make any subjective decisions on behalf of their clients. While there are eligibility requirements for certain products and services, we note that these are provided based on clients' self-declared situations, which support the execution of certain client orders. OEO Dealers do not – and should not – make decisions about "appropriateness." We remind CIRO that OEO clients control their investment decisions in the OEO model.

Meaning and Application of "Recommendation" or "Advice"

The Investment Dealers we represent (from both the OEO and advisory channels) believe the intent of the firm when providing tools and information is a key consideration when evaluating whether or not a recommendation is being made. The context in which the information is provided should also help differentiate between "recommendation" and "education."

OEO Dealers usually make reports on products available to their self-directed clients. These research reports, from different entities, may have different views (buy, hold, sell) on the same product. The goal of the OEO Dealer is to educate, not to recommend.

We believe a "recommendation" from a firm would necessarily be a clear "call to action" (or a "you should"). A "call to action" from a firm would be made with the intent to drive a specific behavior: this type of action should not be tolerated in the OEO business model.

Former Request for Comments (IIROC) – History Must Not Repeat Itself

As previously noted, the development of the former IIROC OEO Guidance was an arduous and deeply challenging process for all those involved. Unfortunately, regulatory staff involved at the time demonstrated a fundamental misunderstanding of both the OEO channel and the unique needs of self-directed clients.

In a former proposal, IIROC bundled tools into categories that inadvertently expanded the scope of tools subject to the Guidance, an example of which was “Trading Tools.” IIROC referred specifically to algorithmic trading programs but then stated that “trading tools” should not be offered; this blanket statement captured other “trading tools” used by clients such as probability analyzers and technical tools. Such confusion must not be a part of the current regulatory process to draft updated Guidance.

Another example of the category ambiguity was under the “rebalancing alerts” section where IIROC referred to “future/predictive information.” Informative tools were being captured under the umbrella of “rebalancing,” yet informative tools are much broader than rebalancing, and such useful tools have been accessible to self-directed clients for many years.

Will History Repeat Itself?

The current (2021) IIROC Guidance states:

We consider a “Trading Tool” to be a method or plan of trading in investment products that uses a predefined set of rules for making trading decisions. In other words, Trading Tools inform an investor of what trades to make.

The OEO Dealer may create the Trading Tool itself, or they may purchase or license it from a third party. Often, Trading Tools are delivered to, and used by, investors through computer programs (e.g., algorithmic trading programs) which either: (a) automatically trade on the investor’s behalf; or (b) provide the investor with suggested trades that they subsequently execute on their own.

As Trading Tools are intended to influence clients’ investment decisions, we view Trading Tools made available by OEO Dealers to their clients as recommendations and therefore a violation of the Recommendation Prohibition. As such, Trading Tools should not be made available by OEO Dealers. (Emphasis Added)

Further, except for Automatic Rebalancing Tools, we note that **making available a Trading Tool that automatically trades on a client’s behalf may be considered to be providing managed account services requiring registration as a portfolio manager with IIROC or a Canadian securities regulatory authority.** (Emphasis Added)

We fundamentally disagree with this section of the current IIROC Guidance. Self-directed clients are not forced to use any of the tools made available on OEO platforms, and many choose not to. Additionally, investors are free to use any unregulated and unreliable sources of “information” to make their investment decisions.

“Trading tools” and “Trade Execution Assistant tools,” when properly designed and properly used, can mimic the work of an investment advisor. Self-directed clients should certainly be given access to these tools. Technical analysis tools, where buy or sell alerts are generated based on the criteria set by the investor, for example, can be set up by any investor on the Internet, so why should they not be equally available on a **regulated** OEO platform? If the client is choosing to use the tool and setting it up to perform as per their needs, and the client is free to act or not to act on the outcome generated by the tool, it should be seen as what it is: a tool for self-education, and not as what it certainly is not, a recommendation by the OEO Dealer.

The current Guidance states that “making available a Trading Tool that automatically trades on a client’s behalf may be considered to be providing managed account services requiring registration as a portfolio manager with IIROC or a Canadian securities regulatory authority.” This statement makes us question who, in CIRO’s view, should become registered as a portfolio manager. Should it be the OEO Dealer that provides a trading tool, or the autonomously acting investor who decides to use it, sets it up with the criteria that fits their needs, and decides to keep using it?

We ask the question as a “portfolio manager” is a person that decides to use a trading tool and to set it up with criteria that fits their clients’ needs and decides to keep using it over time. A portfolio manager is not the *provider* of a tool nor the *platform* that houses a tool. A portfolio manager would presumably be the human that elects the course of action, based on their research or consultations, and periodically revisits their decision, regardless of whether or not they choose to use technology to implement their decisions.

The Investment Dealers we represent believe the current rules have been designed to limit OEO Dealers rather than to help the industry innovate and modernize, and, once again, are concerned this is pushing clients towards potentially perilous unregulated alternatives.

Tools Available to the Self-Directed Client

Technical tools that have been available to investors for over 25 years on the Internet must continue to be accessible to self-directed clients. These tools are very informative and must remain available to them, through regulated OEO platforms. The results generated by these tools are not pushed to clients, and they only function based on inputs *from* the client. The self-directed client must have the right to use or ignore these tools, either on the Internet or on an OEO platform.

The Investment Dealers we represent are concerned that misguided and unclear rules regarding trading tools in the OEO space have become a deterrent to dealing with Canadian-registered firms. As a result of this, OEO Dealers are increasingly losing clients to offshore firms which are not regulated in Canada, and investors who have been directed to these unregulated spaces are being left completely unprotected. We are observing that rules which turn Canadians away from the regulated space are having an equally detrimental effect on innovation in Canada.

Prior Conversation regarding Rebalancing Tools

In prior conversations with regulators, a fundamental misunderstanding was evident in regard to rebalancing tools. A former proposed Guidance suggested that in cases where a rebalancing tool had been employed by a client to execute orders (in accordance with their own pre-determined levels), OEO Dealers had to – in unforeseen circumstances, no less – interfere with those instructions and implement safeguards to manage any risks. In the example in a former IIROC proposal, OEO Dealers were expected to have astonishing levels of prescience, to foresee the unforeseen, and intervene in the case of a plummeting security.

In this former proposed Guidance, OEO Dealers were also expected to make decisions about what might be potentially harmful to clients. The provision of any alert based on market activity, risk, or the subjective decisions of a particular OEO Dealer would indeed be viewed as a “recommendation” by the Investment Dealers we represent, who would urge the regulators not to include any such proposals regarding OEO channels in any future Guidance.

Requesting the Tool

As a general practice, OEO Dealers do not send information to clients without the client initiating the request. Information is only made available to clients if they log on to the firm’s platform and “request tools and information,” which is then provided to them through account-specific email alerts or subscriptions to products. The client controls these requests, and client control is a primary tenet of self-directed investing.

Pull-and-Push Notifications

OEO Dealers require the ability to “push” information to clients so that they are aware that educational information or new tools are available to them, in line with the communication preferences set by the client. For the regulator to prohibit OEO Dealers from providing this information could be seriously harmful to investors. We strongly believe that OEO clients have the right to be informed about products and account types, and educational information should be made available to them so they can effectively manage their investments and knowledge base according to their needs. It should be noted that OEO Dealers often host seminars for clients to help improve their financial knowledge.

Furthermore, limiting the ability of a client to “pull” research reports relating to a particular class of securities that the firm might consider “inappropriate” for them, besides being an infringement on the right of the client to be fully informed and have full autonomy over their investing, would also amount to a substantial technological build on the systems currently in place, and would once again increase costs to clients, who may be seeking a low-cost trading option. Once again, the Investment Dealers we represent would urge the regulators to educate themselves on the usefulness of these tools to self-directed clients and the potential harm to investors that would result from any proposals limiting their access to information or autonomy within self-directed investing platforms.

OEO Dealers agree that “push” information could, in certain circumstances, be understood by clients as “advice.” However, it should be noted that the client must actively choose to log on to the firm’s platform in order to find product information or account type information, and to execute trades, and therefore “pull” any content provided by the OEO platform.

Hyperlinks

The Investment Dealers we represent do not believe that hyperlinks to outside sources should be considered “recommendations” when an OEO Dealer makes it clear to a client that:

- 1) the client is leaving the Dealer’s website; and
- 2) the firm does not endorse the content of the third-party website.

Once again, we believe the existing disclosures to clients are clear in respect of links to outside sources.

Integrated Tools

The CRO request for comments states the following with respect to integrated tools:

Some OEO Dealers offer tools that are integrated with third-party tools (Integrated Tools). For example, a third party may offer research reports that provide a “trade now” functionality linked to an OEO Dealer’s platform. With a single click of the “trade now” button on the third party’s website, the client is automatically directed to the OEO Dealer for trade execution where the trade details (e.g. security name, etc.) are automatically populated.

The Investment Dealers we represent do not believe that transactions from integrated tools should be considered “recommendations” when a firm makes it clear to a client that:

- 1) the client is leaving the firm’s website; and
- 2) the firm does not endorse the content of the third-party website.

Furthermore, we would emphasize that an investor utilizing a third-party tool to explore research reports is actively engaging in **self-education**. If, after reviewing the reports, the investor finds the information satisfactory and decides to act, they simply have a more streamlined path to execute their decision.

This does not seem controversial in the least: it should be the right of any self-directed client to self-educate with research reports provided by third parties that are integrated into the platform they are using. Investors expect this kind of integration when they use any website, and the decisions and actions are taken by the investors themselves, autonomously.

Again, the Investment Dealers we represent believe any notion that integrated tools represent investment “advice,” is simply incorrect and that it would be a major disadvantage to investors not to have access to these tools with which to improve their investment knowledge and streamline the trading process.

If educational tools are only made available to portfolio managers and investment advisors, and the majority of potential investors cannot afford to work with an investment advisor, the message being sent to the investing public is that they are not wealthy enough to understand financial matters nor use trading platforms and therefore should not be investing. By contrast, making investment easier for investors has a profoundly important impact on their lives and is aligned with increased financial knowledge and corresponding investor empowerment.

Complex Products and Tools

It should be noted that complex products and tools are offered because clients request them. The client base has evolved since the beginning of the OEO model. Clients are now comfortable using the Internet and mobile devices. OEO Dealers can provide convenient, user-friendly and cost-efficient “complex” tools as requested by their clients, in order to meet their financial needs. Innovation must not be limited by poorly designed regulation in this channel.

Historical/Factual Information versus Future/Predictive Information

An historical concern for the Investment Dealers we represent was with respect to historic versus predictive tools. An older proposed Guidance seemed to indicate that providing historical data to customers was allowed but that providing predictive tools was not. The current Guidance goes in the same direction, which is very concerning to the industry. It implies that while an investor may rely on *fundamental* analysis to guide their investment decisions, they are prohibited from using *technical* analysis—a notion that any seasoned professional in the investment industry would find utterly preposterous.

We believe that clients must have access to a broad range of information. Clients should have access to historical data (fundamental analysis); live data; as well as predictive tools (such as technical analysis tools) in order to have a complete understanding of a product.

Removing predictive tools would force clients to make investment decisions based solely on past performance, which is not an indicator of future results.

We believe that the more tools made available to clients, the better the perspective they will have. Predictive tools contribute to increased investor knowledge, which is in their own best interest. We believe that predictive tools that do not contain a “call to action” or viewpoint, cannot be construed as “recommendations.” Furthermore, investment advisors use these tools to perform analysis on behalf of their clients. Self-directed clients should therefore not be prevented from using them. Additionally, these tools are widely available on the Internet and should be available on regulated OEO platforms.

Expectations – Digital Landscape

In today's digital landscape, consumers have come to expect seamless access to integrated tools and information when making purchasing decisions on transactional websites. Whether buying a product online or executing an investment trade, the process should empower users with the data they need to make informed choices.

Consider Amazon as an example: before making a purchase, a customer may explore product ratings, delve into detailed reviews (often including updates from buyers after months or even years of use), and consult independent review sites that rigorously test products over time. These resources do not dictate the customer's decision but rather empower them with the insights needed to evaluate a product's quality and suitability, taking into account both its track record and its potential to meet their future needs.

Clients on OEO platforms expect a similar experience. Self-directed clients rely on a combination of historical data, market trends, and predictive analytics to form independent judgments about potential trades. Just as an online shopper interprets product reviews through their own lens, an investor processes market data and forecasts to inform their decisions. In today's world, access to such integrated tools is not a luxury, it is a fundamental expectation.

Restricting or complicating access to these resources would not only hinder informed decision-making but could also frustrate investors and drive them away from regulated platforms entirely, undermining the integrity and accessibility of self-directed investing.

Technological Impact and Implementation Time

As we mentioned at the beginning of our letter, we understand that this is only the preliminary stage of the regulatory process regarding the upcoming updated Guidance. Even so, we would like to stress that the implementation of CRO's upcoming Guidance should not require that firms provide clients with an "appropriateness" test for a product or subset of a product (reverse and leveraged exchange-traded funds (ETFs), for example) as IROC has proposed in the past.

Order management systems (OMS) are not built to limit a specific product to a subset of clients. To accomplish this and deliver the same level of trade efficiency clients have come to expect would entail a massive technology "re-build" to create logic that customizes the product scope available to each individual client. This would necessarily mean increased fees for the client, quite apart from the fact that any such customization would be contrary to the underlying principles of self-directed investing and very difficult to harmonize across dealers.

In addition, while OEO firms may control account type (e.g., margin versus cash), they have never built logic into their account opening processes to determine whether to accept a prospect as a client based on a true "appropriateness" test. Moreover, if the account opening process were to become overly burdensome, many investors would likely abandon OEO firms altogether. With

limited access to other CIRO-regulated alternatives, some may be driven toward unregulated foreign platforms in search of more accessible investing options. Such an outcome would not only fail to serve the interests of Canadian investors but would also undermine the competitiveness of Canada's investment industry.

The Investment Dealers we represent view the idea of restricting the product or account type information available to clients based on their investment knowledge to be a major technological hurdle and are concerned that if an OEO firm were to be mandated to use know-your-client (KYC) information collected from clients to determine what products or account types would be available to them, clients would perceive this as "advice" or a "recommendation". Once again, we would discourage any contemplation of such proposals for customization with respect to the OEO channel.

The Investment Dealers we represent have stated that if any significant technological changes to their onboarding and re-documentation processes were needed following the publication of the updated CIRO OEO Guidance, a substantial amount of time would be required to implement these. We strongly believe CIRO's upcoming Guidance must not negatively impact clients or the industry.

Supporting Innovation

OEO Dealers are proud to be the largest and longest standing successfully regulated Fintech organizations, who deliver technological solutions to clients at a low cost, filling an enormous need in the market. The Investment Dealers we represent believe that any proposed change to the upcoming Guidance must not contradict the industry's efforts to support Fintech's innovative solutions.

The digitalization of investment management is making it more cost-effective, accessible, and widespread, necessitating a shift from outdated regulatory structures toward low-cost and regulated solutions for self-directed clients. In the absence of these platforms, these investors would likely turn to unregulated platforms that are currently, unfortunately, widely available.

Model Portfolios

As per the current Guidance, model portfolios are generally considered to be "recommendations" unless certain criteria are met:

- i. are limited to class of investor, asset class, industry sector and/or time horizon,
- ii. do not reference specific securities (as defined below) or issuers, and
- iii. are only made available on OEO Dealers' websites to be "pulled" by the client, without prompting or influence by the OEO Dealer, and are not "pushed" to clients.

The IIROC Guidance refers to such limited Model Portfolios as "**Permitted Model Portfolios**".

We believe that these “limited” model portfolios may not properly support self-directed clients in the way that more detailed model portfolios could. We also believe that exemptive relief for model portfolios is essential. We will provide further information on this topic in the next phase of the CIRO project when it is published.

Educating the Investor

It should be reiterated that the goal of OEO firms is to educate, not to recommend.

Furthermore, investors using the services of OEO Dealers are well aware that they control their own financial future, and we believe this is felt as a “right” by such self-directed clients. Our industry must help these OEO clients by providing the applications, tools, products, and account types that allow them to reach their investment goals at a low-cost.

Upcoming Proposal - Cost to Clients and Industry

We believe that any upcoming regulatory proposal should not impose a significant cost burden on market participants operating OEO Investment Dealers. In particular, modifications to the supervisory framework or technological requirements could substantially escalate costs, posing a challenge to the viability of the OEO business model.

Other costs, such as changes to account forms; changes to processes and systems; technology updates; and other supervisory changes, could also be impacted. All these increased costs would eventually be passed on to the client, who often elects an OEO model primarily on the basis of its low-cost.

If OEO Dealers were forced to respond to burdensome and inappropriate regulation while maintaining their commitment to offering a low-cost option to investors, they could decide to limit their offerings to only “plain-vanilla” products, which would not be in the best interests of their clients. Therefore, we would urge CIRO to properly consider the potential impacts of any changes it may propose on the industry and its investors, including any changes that could undermine the client experience or infringe upon any privileges or rights clients are accustomed to having.

We must reiterate that we believe the existing disclosures are clear: the self-directed client controls the investment decisions; and OEO Dealers are providing neither recommendations nor advice.

Thinking Outside the Box

The Investment Dealers we represent propose a fresh approach to developing new OEO Guidance. Rather than merely analyzing the existing framework and making incremental changes, we suggest leveraging an OEO investing flowchart.

By mapping out the distinct stages of the investing process, CIRO would gain a clearer understanding of each step investors take when making investment decisions. This structured approach would enable the thoughtful integration of appropriate tools at each stage, resulting in guidance that is not only more practical for investors but also more effective for OEO Dealers.

Consultation Questions

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?

CIFIC Response:

a) No, the Investment Dealers we represent do not believe there are any specific products or services in respect of which OEO Dealers should be encouraged to issue alerts or other proactive information. We note that notifications and alerts will be limited by the technology used by the different OEO platforms.

OEO platforms could be granted the discretion to offer tools that empower investors to customize their own alerts. These tools might include predefined settings, such as notifications triggered when a market index rises or falls by a specified percentage or when an investor's portfolio experiences a certain level of fluctuation. However, within the OEO framework, the selection and activation of such alerts must always remain at the investor's discretion.

To enhance investor engagement with these features, OEO Dealers may consider developing concise, educational videos that clearly explain the available alert options and the implications of activating them. This approach could help mitigate concerns about investors overlooking these valuable tools.

Self-directed clients should retain full control over setting personalized alerts, whether for price movements that exceed a predetermined threshold or for news releases impacting specific investments. While OEO Dealers play a crucial role in providing sophisticated tools to facilitate these alerts, proactively pushing investment-related information to clients falls outside their mandate.

b) The Investment Dealers we represent believe that alerts should be selected and activated by investors and fully customizable by those investors. They may need to be turned off by default (opt-in only) if the OEO platform can support that.

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 recommendation 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?

CIFIC Response: The Investment Dealers we represent are advocating for the inclusion of essential tools and services on OEO platforms to better serve investors, and for Dealers to be permitted to decide which tools to offer. The evolution of financial technology and digital investment platforms has significantly enhanced the ability of self-directed clients to make informed decisions. To ensure that investors benefit from these advancements while maintaining a fair and efficient marketplace, we believe the following items should be available on OEO platforms:

- a) **Specific Tools:** Clients should have access to a broad range of investment tools that enhance their ability to analyze and assess investment opportunities independently. Tools that provide general investment education; asset allocation insights; and risk assessment frameworks should be included. Tools which allow and invite client self-service are appropriate; for example, tools which allow a client to create lists of dividend-paying securities.

We also note that active traders may rely on trading tools that connect with their Dealer through Application Programming Interfaces (APIs). Again, we reiterate that if such usage were to be restricted, more clients would simply choose to move their business to

unregulated firms. The services described above and outlined in our letter empower investors without crossing into personalized advice, thus preserving the integrity of the OEO model.

- b) **Model Portfolios:** The current guidance limits model portfolio tools to broad categories such as investor class; asset class; industry sector; and time horizon, while excluding those referencing specific securities. The Investment Dealers we represent support allowing model portfolios that reference specific securities, provided they do not constitute a “recommendation” based on client-specific information, or an incentive to trade in products that could be deemed as a conflict of interest.

Many investors, especially those new to investing, benefit from structured guidance that provides real-world examples rather than abstract concepts. Expanding this framework would enhance investor decision-making without compromising regulatory boundaries.

- c) **Self-Assessment Tools:** Self-assessment tools and questionnaires help investors identify their risk tolerance; investment goals; and suitable asset classes. The current guidance does not contemplate such tools, yet they are instrumental in fostering responsible investing behaviors. Allowing OEO Dealers to offer self-assessment tools and questionnaires would help investors better understand their own profiles without the need for personalized advice, thereby enhancing investor protection and financial literacy in the OEO channel.

The fact that CIRO proposed its own self-assessment questionnaire to investors is evidence that such tools offer great value. We note that self-assessment tools should be clearly distinguished from individual client suitability assessments performed by advisory Dealers.

- d) **Investment Filtering Tools:** Filtering tools that allow investors to refine their investment choices based on market capitalization; sector; index tracking; sustainability and ethics; and other relevant criteria are essential for navigating increasingly complex financial markets. We believe such tools should not be arbitrarily restricted, as they enhance investor autonomy and efficiency. Investors should be able to further narrow down their selections using additional criteria such as price, performance, and dividend yield, as long as these filters remain informational rather than advisory. These tools should allow investors to zoom in or zoom out (be specific or broad) as per their needs, and arbitrary limits should not be imposed.

One of the Dealers we represent believes that certain trading tools should be restricted to clients who have met the necessary qualifications for specific activities. For example, options-related alert tools could be available only to options-approved clients, while more advanced tools might be accessible exclusively to those qualified for short-selling accounts. However, existing technology may not currently enable most Dealers to enforce such restrictions effectively.

- e) **Combining Multiple Tools:** The Investment Dealers we represent believe that clients should have full autonomy in determining how they utilize each individual tool. Investors often benefit from using multiple tools in succession, such as self-assessment tools; asset allocation models and portfolio analyzer tools; securities filters; and rebalancing tools, to construct well-structured portfolios.

Restricting the combination of such tools would be counterproductive, as these resources work synergistically to improve investor decision-making. Instead, clear regulatory parameters should be established to ensure these tools remain educational and do not cross into personalized advice.

- f) **Limited Client-Specific Information:** There should be greater flexibility in allowing OEO Dealers to use limited client-specific information, provided it does not amount to a recommendation. For instance, if a client funds their account but has not made any investments after a certain period, it would be beneficial to provide educational information on the importance of capital deployment. Such proactive engagement helps prevent cash drag while ensuring clients make informed investment decisions, all without violating the non-advisory nature of the OEO model.

Enhancing the availability of these tools is in the best interests of investors, regulators, and the industry. By embracing innovation and providing structured yet non-advisory guidance, OEO Dealers can support self-directed clients in making more informed decisions while preserving the integrity of the execution-only model.

We urge regulators to recognize the critical role these tools play in today's investment landscape and to adopt a regulatory framework that reflects this reality. Again, we note that unfortunately, investors already have plenty of unregulated options to choose from.

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?

CIFIC Response: Referrals to individuals **providing investment advice or recommendations without** being registered and regulated on CIRO or the Canadian securities commissions should not be permitted, since OEO Dealers would also be required to accept liability for the content, and conduct due diligence and ongoing monitoring of the outsourced service.

The Investment Dealers we represent also believe that Finfluencers are today’s advertisement-of-choice to reach the bulk of the investing population. Hiring a Finfluencer, from our perspective, is not any different from hiring a spokesperson or actor in a televised advertisement for an OEO Dealer.

However, Finfluencers must comply with advertisement regulation and should not recommend products, as mentioned: investors must not confuse them with regulated investment advisors.

With respect to the integration of third-party platforms such as the example of “Trade Now” functionality given above, the Investment Dealers we represent do not believe that transactions from integrated tools should be considered “recommendations.”

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?

CIFIC Response: OEO Dealers should have the flexibility to develop tools that enable investors to execute multiple trades while simultaneously viewing quotes and volumes for each transaction. However, investors must retain full control by directly inputting their trade instructions. Fully automated execution without any investor input should not be permitted. The Investment Dealers we represent believe that complete automation could be construed as investment advice, which is not appropriate within the OEO platform framework.

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?

CIFIC Response: The Investment Dealers we represent firmly believe that the reliability of tools and information should be the cornerstone of regulatory action. To safeguard investors, unreliable sources must be eliminated, while credible and trustworthy information must be readily accessible. The medium through which this information is delivered—whether via websites, emails, apps, or social media—is secondary to ensuring its integrity and availability.

Enforcement mechanisms must be reinforced to effectively combat misinformation, ensuring that investors are not misled by unreliable or deceptive content. Collaboration with international industry stakeholders is essential to enhance access to reliable, standardized information across jurisdictions, allowing investors to make well-informed decisions regardless of market boundaries. Finally, comprehensive investor education initiatives can empower individuals to

discern between credible financial guidance and speculative or promotional content, ultimately cultivating a more knowledgeable and safeguarded investor base in Canada.

Conclusion

We commend CIRO for its commitment to reassessing the regulatory framework for the OEO model. It is imperative that investors have access to the right tools and reliable information, rather than being forced to seek guidance from unregulated sources that may be incomplete, misleading, or even non-compliant with securities laws.

We welcome this important consultation and the opportunity to assist CIRO in its efforts to modernize and clarify the Guidance while maintaining the OEO Dealers' commitment to providing high-quality, efficient services to self-directed clients and helping them make better informed investment decisions for themselves.

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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