



December 19, 2023

Delivered By Email: memberpolicymailbox@iifoc.ca

Member Regulation Policy
Canadian Investment Regulatory Organization
Suite 2000
121 King Street West
Toronto, Ontario M5H 3T9

Dear Sirs and Mesdames:

RE: CIRO Rule Consolidation Project – Phase 1

IFIC is pleased to provide the Canadian Investment Regulatory Organization (**CIRO**) with our comments on the Rule Consolidation Project—Phase 1 (**Consultation**).

IFIC is the voice of Canada's investment funds industry. IFIC brings together approximately 150 organizations, including fund managers, distributors and industry service organizations to foster a strong, stable investment sector where investors can realize their financial goals. IFIC operates on a governance framework that gathers member input through working committees. The recommendations of the working committees are submitted to the IFIC Board or board-level committees for direction and approval. This process results in a submission that reflects the input and direction of a broad range of IFIC members.

SUMMARY

IFIC supports the Rule Consolidation Project (**Project**). We have set out a number of principles which guide our members' analysis of the proposals in the Consultation. We also emphasize the importance to our members of the Project phases being implemented simultaneously, not in phases, to avoid duplication and reduce implementation risk. We also recommend a sufficient implementation period for our members to make required IT changes as well as any necessary changes to policies and procedures, training and operational matters. In addition, we make suggestions for improving the efficiency of the consultation process for the remaining phases of the Project. In Appendix A we provide answers to the six questions posed in the Consultation.

GUIDING PRINCIPLES

The following guiding principles inform the analysis and discussion of our members concerning the Consultation and will inform the analysis and discussion of the remaining phases of the Project.

1. Like dealer activities should be regulated in a like manner.
2. Regulatory arbitrage between investment dealers and mutual fund dealers should be minimized.
3. Current mutual fund dealers that choose to continue as mutual fund dealers should be minimally impacted by any changes to the rules.
4. Rules should be sufficiently flexible to permit a spectrum of business structures and offerings.
5. Where appropriate and practical, principles-based rules that are scalable and proportionate to the different types and sizes of dealers and their respective business models should be adopted.
6. Reviews, audits and examination of dealers should be consistent in the interpretation and application of the rules, regardless of business model.

IMPLEMENTATION OF THE RULE CONSOLIDATION PROJECT

It is critical that, while the consultations on the Project are rolled out on a phased basis, the coming into force of the entirety of the Project be done at one time, after a sufficient implementation period. While numerous parties have urged CISO to proceed expeditiously with the Project, we are concerned that moving too quickly in a piecemeal fashion will cause regulatory inconsistencies, client confusion and significant implementation risk. An unsuccessful launch of the Project would be counter-productive to achieving the regulatory objectives and would undermine dealers', investors' and other stakeholders' confidence in securities regulation.

- It is only once all five phases of the Project are completed that a comprehensive analysis can be done to ensure nothing has been missed and that nothing within the rules is contradictory. A concurrent implementation will also facilitate presenting changes to clients in a digestible manner, minimizing any client confusion. Moreover, the implementation will vary depending on the scope of change, and a full view of the new requirements will enable firms to create solutions that provide the best experience for clients, and the best structure for ongoing supervision. In short, a concurrent implementation will allow the complete set of rules to arrive as a cohesive whole, and will maximize their impact in the market in a positive manner.
- The IT costs, in particular, of each phase cannot yet be quantified. However, to the extent that different phases require the same documents or the same processes to be updated, amended or modified numerous times, the magnitude of the cost will increase dramatically. For example, one member estimates the cost of updating documents with the new CISO name and logo alone will cost seven figures. If those same documents must be updated and amended again as a result of one of the phases of the Project, a similar cost will be incurred again. Such duplicative costs are onerous and can be avoided by only requiring implementation once the Project is completed.
- There are a finite number of people in each dealer firm who can deal with the IT, compliance and operational implications of the Project, in addition to their other work. Their time and efforts must be deployed in the most efficient way possible; to do otherwise will increase, not decrease, regulatory burden.
- There is likely to be significant change management efforts required by dealers to implement the new rules including training of staff, advisors and advisor teams.

The time for completing the review once all phases are complete, and subsequently for each dealer to make the necessary IT, operational and compliance changes and complete training in their firm, must be reasonable and sufficient. While we cannot quantify the time needed for implementation this early in the Project, we will provide our suggested timing when the Project is nearing completion and before the comprehensive review is completed, prior to the implementation period beginning.

IMPROVING THE EFFICIENCY OF THE CONSULTATION PROCESS

We have two suggestions to improve the efficiency of the consultation process for the remaining phases of the Project:

1. *Provide a minimum 90-day comment period for each phase of the Project.*

Our concerns are founded in the importance of public input to the rule-making process and the difficulty for industry organizations, such as IFIC, which provide comments reflecting the consensus views of our members, to obtain and reflect those comments in a reduced time frame. IFIC gathers its members' comments through a committee process; the comments are then reflected in a draft comment letter, which is circulated to members of the committee struck for the purposes of reviewing the draft rule, as well as to appropriate working groups and committees of the Board of Directors for their approval.

The time required to have meaningful committee discussions, gather comments and formulate a response which represents the feedback obtained from our members, who are doing this work in addition to their regular work commitments, is exacerbated by (i) the diverse sizes of our members

and their different current and evolving business models, (ii) the need for members to canvass and receive comments from multiple parts of their firms, such as operations, systems, behavioral economics, finance, legal, compliance and tax divisions, and (iii) the frequent need to receive comments from third-party service providers. Further, rule consultations have become longer and more complicated to assess and implement, with greater need to obtain operational and systems perspectives at the comment stage than was once required. The time challenges are further complicated when there are several overlapping rules published for consultation at the same time or when a consultation is published for comment over the summer, over holiday periods, or during particularly busy times for our members, such as year end and RRSP season.

This is especially true given that CIRO has announced that the coming consultation phases of the Project will increase in complexity. Although this Consultation was deemed to be “low impact” by CIRO, the questions led to extensive and frequent industry discussions to provide comments; this was difficult to do within a 60-day response period given the deliberative process described above.

2. *Provide a description of changes from current MFDA rules for each phase.*

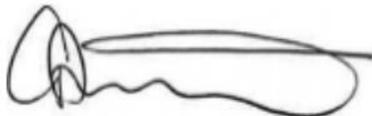
Our members found it challenging, particularly with only a 60day comment period, to easily identify the changes to the MFDA rules being suggested by the Consultation. In future phases, it would greatly assist our analysis if there were a narrative discussion of what is being changed or is not being carried forward from the current MFDA rulebook.

CONCLUSION

IFIC is pleased to have had this opportunity to provide our comments on the Consultation. Please feel free to contact me by email at amitchell@ific.ca. I would be pleased to provide further information or answer any questions you may have.

Yours sincerely,

THE INVESTMENT FUNDS INSTITUTE OF CANADA



By: Andy Mitchell
President & CEO

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APPENDIX A

Question #1 - Delegation

As part of the Phase 1 Proposed DC Rules, we have adopted existing IDPC Rule subsection 1103(1) relating to delegation but have not yet made a final decision on the approach we should take in drafting the final general rule requirement relating to delegation.

Which of the following rule drafting approaches do you think we should take and why? Should we:

- generally permit the use of delegation, subject to specific prohibited exceptions itemized elsewhere throughout the rules?

or

- generally prohibit the use of delegation, subject to specific permitted exceptions itemized elsewhere throughout the rules?

IFIC Response:

- **We generally prefer permitting the use of delegation, subject to specific prohibited exceptions. We believe this would provide maximum flexibility for evolving business models. We recommend that all prohibited exceptions be listed in one place in the rules.**
- **We strongly support the ability of CIRO to grant group exemptive relief.**
- **We recommend that the ability to grant exemptive relief be delegated from the Board of CIRO to specified individuals. This would provide much greater flexibility and timeliness in granting relief. We note this delegation was adopted for some exemptive relief during the COVID period.**
- **For the avoidance of doubt, we would appreciate CIRO's confirmation that all existing exemptive relief will continue in force and that no amendments will be required.**

Question #2 - Temporary discretionary accounts

We have determined that there is no longer a need to make temporary discretionary account arrangements available to clients and will be proposing to eliminate this investment dealer account type as part of future phase of the Rule Consolidation Project.

Do you agree with the proposed elimination of this investment dealer account type? If not, please provide reasons why this account type should be retained.

IFIC Response:

- **We believe there is still a purpose for this type of account, such as if a client is travelling to where there is no cell phone or internet access or to different time zones, which could make it difficult to obtain instructions on a timely basis. As a result, it should not be eliminated. Further, there does not appear to be a policy reason why it should not be available for use by mutual fund dealers as well.**

Question #3 - Account types that can be offered by Investment Dealer Members and Mutual Fund Dealer Members

Under the Phase 1 Proposed DC Rules, the following account types will be available to Dealer Members:

- advisory account (available to both Investment Dealer Members and Mutual Fund Dealer Members)
- direct electronic access account (available only to Investment Dealer Members)
- managed account (available only to Investment Dealer Members)
- order execution only account (available only to Investment Dealer Members)

Should we consider proposing to allow Mutual Fund Dealer Members to offer managed accounts and order execution only accounts as part of a future Rule Consolidation Project phase and provided they comply with requirements that are materially the same as those that apply to Investment Dealer Members? Any such changes would have to be developed in conjunction with the CSA.

IFIC Response:

- **In keeping with our guiding principle that there should be maximum flexibility for business models, we believe each of these types of accounts should also be available to mutual fund dealers, provided those dealers comply with the supervision, proficiency, capital and other rules applicable to such accounts as found in the IDPC rules and provided the client can only hold in those accounts the products that the mutual fund dealer and its representatives can offer. We acknowledge that to offer certain of the accounts, especially OEO accounts, would entail a change of business model and could require other related changes.**

Question #4 – Regulatory financial filing forms

The existing IDPC and MFD rules require the completion and submission of two different regulatory financial filings forms (both referred to as Form 1). As part of a future Rule Consolidation Project phase, a determination will need to be made as to whether we maintain two different regulatory financial filing forms or one going forward.

Do you think we should maintain two different regulatory financial filing forms or one for both categories of CIRO Dealer Members? Why?

IFIC Response:

- **Both forms can be consolidated into one Form 1. The current regulatory financial filing requirements for mutual fund dealers should be maintained as a separate part within the Form 1 as there are reporting differences, for example, with respect to how mutual fund dealers treat long-term liabilities. There should not be any substantive change to the Form 1 requirements at this time; any future substantive changes should follow careful consultation and provide for sufficient implementation time.**

Question #5 – Harmonized Approved Person regime

There are material differences in the Approved Person regimes that apply to Investment Dealer Members and Mutual Fund Dealer Members. Our intention is to:

- harmonize these two regimes as much as is feasible,
- retain a harmonized regime that continues to stress the important role played by individual Approved Persons in ensuring rule compliance, and
- ensure the harmonized regime accommodates different firm types and business models without introducing significant regulatory burden.

What other factors should CIRO consider in its future phase work to develop a more harmonized Approved Person regime?

IFIC Response:

- **Future work on this topic should ensure that mutual fund dealers that continue with their current business models, and their representatives, are not subject to any different requirements than are currently applicable, for example, no additional filings, competencies, or proficiencies. The current advisor distinctions with respect to competency profiles and Approved Person categories which differentiate between those authorized to deal in mutual funds, securities and/or derivatives should be maintained.**

Question #6 - Categorization of clients

As part of a future phase of the Rule Consolidation Project we will need to determine whether the use of the “institutional client” / “retail client” categorization should be extended to Mutual Fund Dealer Members and, if so, whether all Dealer Members should be given the option of treating all clients as “retail clients” to avoid the burden of having to categorize clients.

Should all Dealer Members have the options of either: (1) categorizing their clients as either an “institutional client” or a “retail client” and complying with the rules relevant to each client type, or (2) treating all clients as “retail clients” and complying with the rules relevant to retail clients? Why or why not?

IFIC Response:

- **All CIRO dealers should have the ability, if they choose, to categorize clients as retail or institutional clients, with the implications that flow from each categorization. We understand that, currently, exemptive relief has been granted to some mutual fund dealers to make such categorizations. We prefer permitting this for all CIRO dealers as this provides maximum flexibility.**