



THE INVESTMENT
FUNDS INSTITUTE
OF CANADA

L'INSTITUT DES FONDS
D'INVESTISSEMENT
DU CANADA

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Delivered By Email: memberpolicymailbox@ciro.ca

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

Dear Sirs and Mesdames:

RE: CIRO - Request for Comment - Non-Tailored Advice in the Order Execution Only Channel

IFIC is pleased to provide the Canadian Investment Regulatory Organization (**CIRO**) with its comments on CIRO's Request for Comment - Non-Tailored Advice in the Order Execution Only Channel (**Consultation**).

As 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 members' input through working committees. The recommendations of these working committees are submitted to the IFIC Board or board-level committees for direction and approval. This process results in submissions that reflect the input and direction of a broad range of IFIC members

SUMMARY

CIRO's current rules and regulatory guidance for order-execution-only (**OEO**) services prohibit or limit recommendations and the information that OEO dealers (**OEO Dealers**) can provide to clients holding OEO accounts (**Client**). These limitations are outlined in [CIRO Guidance Note 3400-21-003 - Guidance on order execution only account services and activities](#) (**OEO Guidance**), which includes the prohibition against OEO Dealers providing investment recommendations to their Clients (**Recommendation Prohibition**). The OEO Guidance also specifies which tools OEO Dealers may provide to their Clients, without contravening the requirement that Clients must make their own investment decisions without receiving any recommendations or suitability assessments from the OEO Dealer.

Despite CIRO's assurances that the OEO Guidance allows OEO Dealers to provide some communications and tools to help Clients become more successful investors, OEO Dealers believe the guidance lacks clarity regarding what types of communications and tools are compliant. This lack of regulatory clarity, which can also expose OEO Dealers to potential legal, compliance, financial and reputational risks, has had a chilling effect on some OEO Dealers' willingness to provide information and tools to Clients, including proactive alerts or other information about markets, products or services such as leveraged products, options, and margin trading.

Regulatory limitations, compounded by OEO Dealers' uncertainty with respect to CIRO's regulatory expectations, have led many Clients to:

- rely on non-traditional sources of information, including social media platforms, online forums, and financial influencers (**Finfluencers**), despite their unregulated status and lack of transparent disclosure, and
- utilize copy trading platforms to overcome the lack of access to reliable financial advice and trading recommendations.

The rapid evolution of non-traditional sources of financial information and advice has led many OEO Dealers to enter into referral arrangements with social media-based Finfluencers, and offer Clients access to copy trading platforms.

These issues, the expected continued growth of the OEO market and social-media-based advice offerings beyond the regulated industry's perimeter, along with CIRO's and OEO Dealers' shared belief in the benefits of enhancing investor protection by ensuring access to high-quality information from verified sources and allowing the use of tools to help investors make better decisions, has led IFIC to support CIRO's evaluation of whether OEO Dealers can provide non-tailored advice to meet clients' needs.

Please note that our responses to the questions posed in the Consultation, which are contained in Appendix A, provide additional information and detail relating to our summary comments within this letter.

KEY ISSUES

Based on our review of the Consultation and OEO Guidance, we encourage CIRO to focus on the following key issues:

- the ambiguity of fundamental concepts within the OEO Guidance, beginning with the question of what constitutes a "recommendation",
- current prohibition on recommendations,
- factors limiting proactive delivery of alerts, warnings and other information to Clients,
- the spectrum of self-help tools that may be provided to Clients, and
- consideration of whether the term "non-tailored advice" is confusing and whether an alternative term would enhance clarity and understanding of this issue (e.g., using the term "*enhanced information*").

RECOMMENDATIONS

Based on our review of the Consultation and the OEO Guidance, we recommend that CIRO take the following actions to address issues identified, enhance investors' access to high-quality information from verified sources and allow them to use tools designed to facilitate better investment decisions and outcomes.

- Clarify ambiguities within the OEO Guidance, relating to:
 - what constitutes a "recommendation,"
 - the prohibition on recommendations, and
 - permitted tools
- Review and update the list of examples of permitted tools to provide OEO Dealers with greater certainty regarding the regulatory intent of the revised guidance and ensure Clients have access to tools that can help them make better decisions, without providing tailored recommendations.

CONCLUSION

IFIC is pleased to have had this opportunity to provide our comments on the Proposal. Please feel free to contact me 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

A handwritten signature in black ink, appearing to read 'Andy Mitchell', with a long horizontal flourish extending to the right.

By: Andy Mitchell
President & CEO

APPENDIX A

Responses to Questions Posed in CIRO - Request for Comment - Non-Tailored Advice in the Order Execution Only Channel

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?

- IFIC does not support CIRO encouraging OEO Dealers to issue alerts¹ or other proactive information to their Clients directly, through revised guidance, or indirectly.
- IFIC members are concerned that if the Guidance Note is revised to implicitly, or explicitly, “encourage” OEO Dealers to issue alerts or other proactive information to Clients, CIRO’s encouragement could be used to argue that OEO Dealers have a regulatory obligation to proactively issue alerts, regarding a specific security, or other information. This could unjustly expose OEO Dealers to compliance and legal risk, as well as financial and reputational loss, notwithstanding that CIRO rules do not (nor should they) impose a regulatory obligation to issue alerts or other proactive information to Clients.
- IFIC believes very strongly that OEO Dealers should not be issuing alerts regarding specific securities. Security-specific alerts are typically issued by regulators, including provincial and territorial securities commissions (**CSA members**) and CIRO. If a CSA member or CIRO chooses to issue an alert that is not security specific, however, the regulator could request that CIRO dealers “push out” the alert.
- IFIC also believes very strongly that the decision whether an OEO Dealer will proactively distribute other information to Clients should rest solely with the OEO Dealer. As such, we believe that it would be inappropriate for CIRO to explicitly or implicitly encourage OEO Dealers to do so, whether through revisions to the Guidance Note or through any other means.
- IFIC members would benefit from greater clarity relating to the types of other information that CIRO may consider to be a recommendation, if an OEO Dealer were to proactively distribute such information to Clients, including:
 - Educational Information
 - Market Conditions/Volatility: Information about market conditions and volatility.
 - Regulatory Changes: Information about changes in securities, tax or other regulations that may impact Clients’ investments.
 - Complex Financial Instruments: Information about products, including derivatives, options, leveraged ETFs, and cryptocurrencies.
 - New Investment Products or High-Risk Investments: Information about new types of investment products or traditional high-risk products.
 - Risk Rating Changes: Information about changes in risk ratings of certain securities (e.g. bond ratings).

(b) What consistent criteria could OEO Dealers use in choosing to issue alerts or other proactive information?

As we noted in our response to question 1a), IFIC strongly believes that the decision to issue a warning or proactively distribute information should rest solely with the OEO Dealer. These decisions require independent professional judgment, considering relevant facts and circumstances. Applying a predetermined set of criteria would be impractical and often ineffective. Therefore, we do not support CIRO identifying specific criteria for OEO Dealers to apply in these cases.

While we urge CIRO to avoid identifying criteria, we offer the following elements for OEO Dealers’ optional consideration use when assessing whether to communicate information to Clients:

¹ In IFIC’s responses, the term alert includes should be understood to include warnings.

- Is the information factual?
- Is the information relevant to issuers broadly, a sub-set of issuers or a single issuer?
- Is the information relevant to all, some or only a single Client of the dealer?
- Is the information publicly known, or available?
- Are there any legal or regulatory impediments to the OEO Dealer communicating the information to its Clients?
- Does the OEO Dealer have a legal or regulatory obligation to distribute the information to relevant Clients?
- Does the information have time-limited application or value?
- Do Clients have an urgent need to know the information?
- Is the information material?
- Is the information market-related or specific security-related?, or
- Does the information relate to recent or upcoming securities, tax or other regulatory changes?

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?

IFIC RECOMMENDS that CIRO include the following tools or services on the list considered to be non-tailored advice. These tools and services help Clients build their investment strategies and make buy, hold and sell decisions, therefore, we recommend that the OEO Guidance be revised to clarify that OEO Dealers may provide the following tools or services to their Clients:

Research and Analysis:

- **Market Research:** Access to market news, analyst reports, and research from reputable sources.
- **Securities and Derivative Screeners:** Tools to filter and identify investments based on various criteria including performance, sector and financial metrics.

Trading Platforms:

- **Web and Mobile Platforms:** User-friendly interfaces for trading and managing investments on both desktop and mobile devices.
- **Advanced Trading Tools:** Trading tools offering advanced features such as real-time quotes, advanced charting, and technical analysis.

Trade Execution Assistance:

- **Automatic Rebalancing:** Tools that automatically rebalance a Client's account in accordance with the client's pre-determined instructions. In that regard, we note that Section 3.3.9(c) of the Guidance Note indicates OEO Dealers should, no less than quarterly, obtain confirmations from clients that their automatic rebalancing instructions should continue. We recommend that this guidance be revised to indicate that OEO Dealers should send periodic "notifications" to clients reminding them of the fact that they have standing automatic rebalancing instructions in place and to ensure that the instructions are up to date. The frequency of notifications should reflect the level of trading and automatic rebalancing activity within the account. In some cases, a quarterly confirmation cadence may be unnecessary and costly and as such, represents an opportunity for CIRO to streamline their regulations and reduce regulatory burden.
- **Algorithmic Trading:** Provided that algorithm(s) are based on client-defined criteria and not OEO Dealer recommendations.

Educational Resources:

- **Learning Centers:** Comprehensive educational content, including articles, videos, webinars, and tutorials on investing and trading.
- **Investor Education Programs:** Programs designed to help Clients understand market concepts and develop investment strategies.

Portfolio Management:

- **Portfolio Tracking:** Tools to monitor portfolio performance, track gains and losses, and analyze asset allocation.
- **Alerts and Notifications:** Customizable alerts for price changes, news updates, and other important events.

Financial Planning Tools:

- **Retirement Calculators:** Tools to help plan for retirement by estimating future savings and income needs, provided that the calculator's forward-looking projections are based on solely on the user's inputs and do not provide specific investment recommendations.
- **Goal Setting:** Features to set and track financial goals, such as saving for education or buying a home.

- (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, provided no recommendation is made by the OEO Dealer based on client information.***

IFIC members support CIRO allowing OEO dealers to provide model portfolios that reference specific securities, provided that no recommendation is made by the OEO Dealer that is 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?***

- Given the nature of the OEO business model, it is important that Clients have the ability to evaluate their own investment preferences, risk tolerance, and financial goals without receiving personalized investment recommendations or advice.
- We are, therefore, supportive of OEO Dealers providing Clients with self-assessment tools, which will help them to make more informed decisions based on their individual circumstances, provided that the self-assessment tools:
 - comply with all relevant regulations, including the OEO Guidance, as amended,
 - provide general information, avoid giving personalized investment recommendations or advice and is designed to help Clients make their own decisions,
 - disclose the purpose and limitations of the self-assessment tool, including for instance, that the tool is for informational purposes only and does not constitute financial, investment or any other type of recommendation or advice, and
 - comply with applicable privacy and data security requirements.

- (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)?***

- Filters are intended to help Clients make more informed investment decisions by providing information and facilitating a Client's selection process based on objective criteria.

- Filtering tools provided by OEO Dealers do not, in IFIC's view, contravene the OEO Guidance provided that the filtered results are based solely on the Client's inputs, which are clearly defined.
- (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)?**
- The use of individual tools that provide benefits to Clients, which may or may not be complementary, should be encouraged rather than prohibited. The use of multiple, potentially complementary information sources could enhance the Client experience and lead to better outcomes.
 - OEO Dealers should not combine tools if, when used in that manner, an investor can reasonably view the output as being a tailored recommendation or advice that has been provided to them by the OEO Dealer.
 - OEO Dealers should ensure that the self-help tools that they provide to their Clients on their dealer websites or apps are presented as distinct tools, and not as components of a single tool comprised of multiple component parts.
- (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?**
- IFIC supports CIRO allowing OEO Dealers to use limited client-specific information, provided the information does not include a recommendation and is not based on KYC information, for the purpose of providing Clients with relevant, objective educational information or other information that is unrelated to a specific security but potentially beneficial to a Client. To be clear, however, notwithstanding the views we have expressed in this response, we reiterate our comments provided in response to question number 1 above, in which we stated that IFIC:
 - does not support CIRO encouraging OEO Dealers, through revised guidance, to proactively deliver alerts or other information to their Clients, and
 - strongly believes that the decision whether an OEO Dealer should issue alerts or other information to all or some of its Clients should rest with each OEO Dealer.

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 what level of initial due diligence and ongoing monitoring should be required on the part of the OEO Dealer

- The nature and terms of referral arrangements between OEO Dealers and Finfluencers are not uniform.
- OEO Dealers have an obligation to conduct due diligence that reflects the nature and extent of all referral arrangements to ensure that the referral agreements accurately capture the degree of engagement between the OEO Dealer and Finfluencer and address material issues, including disclosure and conflict management.
- An OEO Dealer's due diligence should also consider whether the Finfluencer's content and materials are clearly distinguishable from the activities of the OEO Dealer and its representatives. OEO Dealers should ensure that Clients are able to determine whether any financial or investment information, recommendation or advice provided by the Finfluencer is that of the Finfluencer and not the OEO Dealer, even though the OEO Dealer may be providing trading services.

- In a third-party platform integration scenario, in which one or more OEO Dealers have integrated their respective trading platforms into a Finfluencer's site or app, Clients of the OEO Dealers with integrated trading platforms can access their OEO Dealer's trading platform from within the Finfluencer's site without having to navigate away from the site to execute a trade. System integration is documented within the referral agreement between the Finfluencer and each OEO Dealer with an integrated trading platform. The "Trade Now" function should clearly indicate that the OEO Dealer does not endorse the content available on the third-party platform, nor should trades placed through an integrated platform be identifiable as such.
- Under these circumstances, and provided that the distinct roles of a Finfluencer and OEO Dealer are clearly disclosed to Clients, the OEO Dealer should not have an ongoing obligation to monitor the Finfluencer's activities, except to the extent that they relate to the OEO Dealer.

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?

- IOSCO's global report on Online Imitative Trading Practices, published in November, 2024, highlights potential benefits and challenges relating to copy trading, as well as essential requirements necessary to mitigate identified concerns, including:
 - Lack of investors understanding the risks associated with copy trading, including the potential for significant losses if the copied trader's strategy fails,
 - Lack of transparency regarding the performance and strategies of the traders being copied, making it difficult for investors to make informed decisions,
 - The importance of a comprehensive regulatory framework capable of addressing the unique risks posed by copy trading, and
 - Effective risk management practices, capable of mitigating the potential risks associated with copy trading, including monitoring and managing the performance of copied traders.
- We are not aware of any formal regulatory issues relating to copy trading platforms operating in Canada.
- Licensing and risk disclosure issues have arisen abroad, including matters that led to the Australian Securities and Investments Commission (ASIC) issuing warnings and enforcement actions against several copy trading platforms for failing to comply with their licensing and risk disclosure obligations to investors.
- Issues noted in other jurisdictions highlight the importance of Canadian regulators collaborating with OEO Dealers and copy trading platforms to facilitate compliance with applicable regulatory requirements and expectations, and enhance investor protection, and market integrity.
- Although CISO's rules do not specifically address the practice of copy trading, CISO's general principles and rules governing dealer activities and Client interactions apply to dealer' interactions with copy trading platforms, including:
 - Disclosure and Transparency: Dealers must provide clear and comprehensive disclosures about the nature of copy trading, including the risks involved, how the process works, and any fees or costs associated with it,
 - Conflicts of Interest: Dealers must identify and manage any potential conflicts of interest that may arise from copy trading arrangements. This includes ensuring that the interests of the Clients are prioritized, and
 - Compliance with General Rules: All activities related to copy trading must comply with CISO's general rules and regulations, including those related to market integrity, fair dealing, and Client protection.

(b) What measures can be implemented to ensure that copy trading is used in a way that is beneficial to investors?

- Copy trading platforms currently operating in Canada have, based on publicly available information, done so without material regulatory issues to date. In recognition of the potential benefits copy trading may offer to some Clients, IFIC has no objection to their continued operation, provided that OEO Dealers offering access to this service is done so in compliance with applicable CISO rules and regulatory expectations.

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?

Based on relevant regulatory history, IFIC is of the view that the mechanisms used by OEO Dealers, to provide or make available information and tools to their Clients, do not warrant distinct regulatory requirements.