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VIA EMAIL

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**Re: Consultation Paper (Phase II) – Competency Profiles for Directors, Executives, Ultimate Designated Persons, Chief Compliance Officers, and Chief Financial Officers (the “Consultation”)**

The Canadian Advocacy Council of CFA Societies Canada<sup>1</sup> (the “CAC”) appreciates the opportunity to provide the following general comments on the Consultation. As noted in our comment letter relating to IIROC Notice 20-0174 Consultation Paper- *Competency Profiles for Registered Representatives and Investment Representatives, Retail and Institutional*, we continue to support a progressive proficiency framework, as we believe such a framework should focus on minimum standards that are responsive to innovation, build professionalism and ensure skills development.

A “competency profile” is described as a set of knowledge, behaviours and skills that an individual must have to perform effectively in their role. We agree directionally with a number of the stated knowledge and skills competencies for the categories covered by Phase II, but believe additional requirements relating to knowledge of the needs of investors and the principles behind the client-focused reforms are needed for many of the categories and sub-competencies in order to effectively build up the intended framework. We are concerned that some of the competency profiles might be seen by some dealer members for these particular categories as containing only key words for a “check the box” exercise related to building proficiency, whereas we believe they should be seen as necessary elements of a more holistic approach.

As the competency profile project is a multi-year endeavour and has the potential to raise the proficiency bar across the spectrum of registration categories, including these

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<sup>1</sup> The CAC is an advocacy council for CFA Societies Canada, representing the 12 CFA Institute Member Societies across Canada and over 19,000 Canadian CFA Charterholders. The council includes investment professionals across Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. Visit [www.cfacanada.org](http://www.cfacanada.org) to access the advocacy work of the CAC.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion of ethical behavior in investment markets and a respected source of knowledge in the global financial community. Our aim is to create an environment where investors’ interests come first, markets function at their best, and economies grow. There are more than 178,000 CFA Charterholders worldwide in over 160 markets. CFA Institute has nine offices worldwide and there are 160 local member societies. For more information, visit [www.cfainstitute.org](http://www.cfainstitute.org).

key executive positions, we were disappointed that the framework does not appear to contain many forward-looking or systemic risk-related considerations particular to these roles, and appears to contemplate an orientation towards the status quo. We are concerned that given the length of time before the profiles are in effect, some of the competencies set out may no longer be relevant (e.g., outdated references to exchanges and ATs without any references to innovations such as crypto assets). In particular, the proposed profiles do not contain specific references to fundamental supervisory considerations that are required as a result of the client-focused reforms being implemented as of the end of the year pursuant to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (“NI 31-103”). In addition, we believe that each of the competency profiles should include greater references to building, maintaining and evaluating management systems.

Appendix 1 sets out the draft competency profiles for directors of dealer members. While the knowledge and skill set would require a director to understand the role of securities regulators, SROs and applicable laws, there is no mention of any overarching need to understand the types and general segment attributes of the financial consumers/clients who utilize the services of the dealer member (a large reason behind the need for the client-focused reforms). While Appendix 6 does note that directors should stay up to date with the knowledge and understanding of all relevant business, industry and regulatory developments, we think there should specifically be mention of a dealer’s fundamental obligations to know-your-client and know-your-product (i.e., these obligations are not the sole purview of the CCO as currently set out in the competency profiles). We note as well that while there is a comprehensive list in Appendix 6 of the role of other regulatory agencies in the financial markets, it would be prudent to include additional competencies relating to an understanding of the role of pension funds and their regulation, given their importance to Canadian retail investors and their prominence in the Canadian investment ecosystem, as well as specific reference to investment fund regulation such as National Instrument 81-102 *Investment Funds*. There is also no specific reference to ETFs in the list of types of securities with which directors should be familiar in the sub-competency for dealer member business models and related areas.

Additional requirements should be set out with respect to the ongoing continuous education and knowledge expected of directors and executives of dealer members, given the rapidly changing regulatory environment and innovation in the financial ecosystem.

In fact, there is no explicit reference to the ongoing evolution of financial services such as the innovation occurring in fintech and crypto asset offerings. Also, given the focus of issuers and investors on diversity, equity and inclusion (collectively “DEI”), ESG and climate-related matters, and Indigenous matters (such as some knowledge of TRC Call to Action 92<sup>2</sup> and UNDRIP<sup>3</sup>, along with their attendant legislative and regulatory recognition and implications), we were surprised that knowledge of these and future foreseeable developments were not included in the required profiles. There should be a

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<sup>2</sup> *Business and reconciliation – Call to Action 92*, online: Crown-Indigenous Relations and Northern Affairs Canada, Government of Canada <<https://www.rcaanc-cirnac.gc.ca/eng/1524506030545/1557513309443> >

<sup>3</sup> *Implementing the United Nations Declaration on the Rights of Indigenous Peoples Act*, online: Department of Justice, Government of Canada <<https://www.justice.gc.ca/eng/declaration/index.html>>

specific knowledge requirement for familiarity with basic terminology and concepts (at a minimum) in these fields. While the role of a director and the depth of awareness required would differ from those of a supervisor or a registered representative advising with respect to specific products, we believe it important that directors and supervisory personnel generally have a good understanding of the innovation occurring in the environment in which dealer members operate. In addition, the profile does not mention awareness or obligations to consider systemic or contagion risks at the dealer member level, which we believe is clearly a director obligation.

We reiterate our general comment made in our earlier letter that there are personal 'soft' skills that are important and applicable to all registration categories. CFA Institute has its own competency framework<sup>4</sup> which is used to inform ongoing professional development and that we believe could inform the ongoing competency profile work of this project. These include items such as collaboration, communication, curiosity and leadership, which all could be considered for inclusion in these competency profiles as well.

Many of the comments set out above are equally applicable to the proposed profile set out in Appendix 2 for executives, specifically a lack of reference to financial consumers and their needs when accessing the services of a dealer member. It is also important that executives and directors have a general understanding of AML requirements, including how Canadian requirements interact with applicable foreign requirements applicable to the specific dealer member, as combatting money laundering is clearly a global effort.

Appendix 6 outlines a number of requirements shared between executives and the UDP, however there is one sub-competency under risk management and oversight which references responsibilities that are solely those of the UDP. While we understand the framework of NI 31-103 is such that the UDP is the executive ultimately responsible for compliance, we believe that a number of the items listed as solely the purview of the UDP should be the responsibility of other executives who must support the UDP's role. For example, executives must also be responsible for ensuring appropriate resources for compliance, related conflicts management, and help oversee a firm's risk management infrastructure, supervisory and compliance systems. Executives and the board must also understand and assist the UDP and CFO to identify contagion risk from a firm's securities concentration, inventory processes and capital processes, which is not noted in any competency other than for the CFO role.

We found that the profile of a UDP as set out in Appendix 6 was, in general, too closely intertwined with the skills and behaviours set out for other executives. Other than what is set out solely as a UDP responsibility as a sub-competency under risk management and oversight, the other competencies do not set out specific UDP responsibilities despite the fact that the UDP has ultimate responsibility for the compliance framework. We believe further breakdowns of roles and responsibilities are required as the role of the UDP is too commingled with the roles of other executives, and even less appropriate, the role of directors. This is particularly true around the requirements for

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<sup>4</sup> *Welcome to the CFA Institute Competency Framework*, online: CFA Institute <<https://interactive.cfainstitute.org/cpd-framework-feedback>>

internal monitoring system implementation and assurances. It would also be helpful to have additional details with respect to the behaviours and skills expected of a UDP in the area of duties, liabilities and defences.

With respect to the draft competency profile for the CCO, while Appendix 7 indicates that a CCO must adopt and maintain a deep understanding of all aspects of compliance as part of the sub-competency for the compliance functions and operations, there is again no direct reference to understanding the financial consumers utilizing the dealers' services, other than with respect to KYC and KYP obligations. There are also few mentions of the CCO's independence with respect to the board and in fact few duties with respect to the board of a dealer at all, other than annual compliance reporting and the need to provide reasonable assurance that the dealer meets all standards, applicable securities laws and regulations. Furthermore, the CCO's own responsibility to develop a system of controls could be more detailed. While principles such as providing assurance that the dealer complies with securities laws and ensuring business risks are managed in accordance with prudent business practices are good goals, they may not be specific enough to assist CCOs with fulfilling this requirement.

Under the competency of compliance functions and operations, the CCO is expected to identify key risks related to new products, services, locations and technology changes, however, there does not appear to be a corresponding requirement to continually be aware of such developments, which is critical for discharging a CCO's responsibilities. For example, in today's environment a CCO must be expected to understand crypto products and related services provided by a dealer member, in order to properly design policies and procedures to manage the associated risks.

We believe that both the CCO and CFO competency profiles should be further integrated with the expectations set out in the director and executive competencies for ease of reference, clarity and tailoring to the specific roles.

The CFO competency profile has a large number of competencies and embedded sub-competencies, befitting the complex and multi-faceted role. While these are quite comprehensive, we note that again there does not appear to be any specific reference to ESG considerations, which may shortly be subject to standards which must be understood by CFOs. In addition, while there are references to understanding IFRS under the general financial requirements competency, many dealers operate in a global environment where an understanding of US GAAP and/or other accounting standards may be a requirement, including potential federal financial institution capital regulations to the extent the dealer member is part of a banking group. As CFOs are executives and subject to the general executive competencies, our comments above with respect to executives are equally applicable to these competencies, particularly with respect to having some knowledge at a high level of the needs of customers, innovations in the financial ecosystem such as crypto assets and the industry structure.

## **Concluding Remarks**

We support efforts to modernize the proficiency expectations and competency profiles for all registrant categories, especially given the rapid pace of change in the industry. While we agree directionally with the competencies set out in Phase II, we do

believe many of them are missing specific additional requirements with respect to knowledge of the end-users of a dealer's services and continuous professional development related to innovative products and services, which we believe IIROC understands well within different regulatory functions.

We thank you for the opportunity to provide these comments and would be happy to address any questions you may have. Please feel free to contact us at [cac@cfacanada.org](mailto:cac@cfacanada.org) on this or any other issue in future.

(Signed) *The Canadian Advocacy Council of  
CFA Societies Canada*

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