

# Canadian Advocacy Newsletter

## January 2025

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### Chair Summary

### Canadian Advocacy Council



**Doug Sarro, CFA**  
Chair  
Canadian Advocacy Council

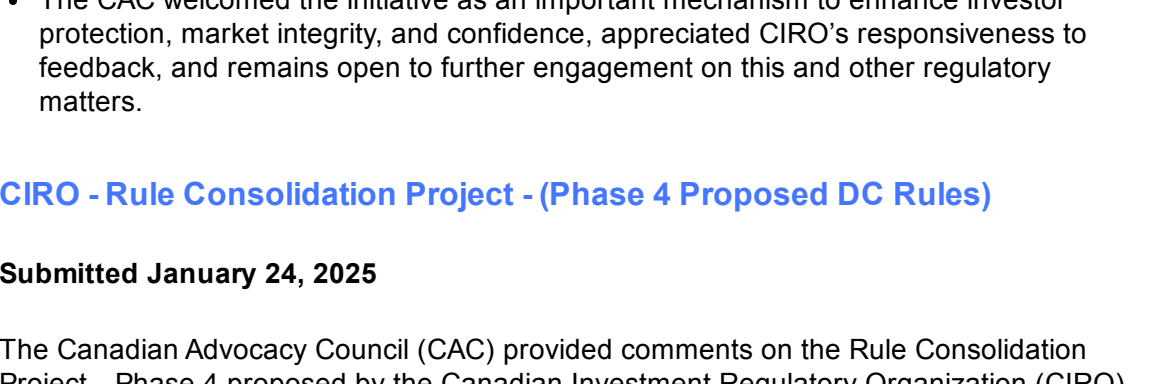
Happy New Year! It's been a busy start to 2025 for CAC, due to a significant number of new consultations announced by regulators toward the end of the calendar year. As of our most recent meeting, we had nine comment letters in progress. We've made some progress in clearing the backlog and hope to make more by the end of January.

This month, we also had the Supreme Court of Canada's hearing in *Markowich v. Lundin Mining Corp.*, a case having to do with public companies' obligation to make timely disclosure of material changes in their business. Pro bono counsel Lenczner Slaughter LLP acted for CFA Societies Canada and presented submissions arguing against proposals to narrow the scope of this disclosure obligation, pointing to their negative implications for market transparency and efficiency.

Congratulations to CFA Societies Canada Board Chair Ron Schwarz, CFA, and Managing Director Michael Thom, CFA, for leading the charge on this—we brought a unique perspective to the Court that hopefully is reflected in their decision, expected to be released later in the year.

### Published Letters

### Canadian Advocacy Council



### CIRO - Distributing Funds Disgorged and Collected through CIRO Disciplinary Proceedings to Harmed Investors (Phase II)

Submitted January 20, 2025

The Canadian Advocacy Council (CAC) responded to the Canadian Investment Regulatory Organization's (CIRO) request for comment on its initiative to distribute disgorged funds to harmed investors. The CAC commended CIRO for its transparency, stakeholder engagement, and policy leadership in this area.

Key points from the letter included:

- The Council acknowledged CIRO's clarification that the program will be operated using its existing resources and structure, with the General Counsel's Office acting as Administrator. The CAC recognized that CIRO has conducted an impact assessment and concluded that the benefits to investors outweigh administrative costs.
- The Council also supported CIRO's plan to conduct regular reviews to assess the program's effectiveness and encouraged the publication of these findings to enhance transparency and inform similar regulatory initiatives.
- The CAC noted that the Administrator has discretion to forgo distributions if costs exceed claims, based on factors such as the amount of funds collected, number and value of claims, claimant locations, and feasibility of payment processing. The Council encouraged CIRO to publish the reasons behind such decisions to maintain transparency.
- Additionally, the CAC sought clarification on whether residual funds from non-pursued distributions will remain within the CIRO Restricted Fund for future claims or be transferred to a general account.
- The CAC welcomed the initiative as an important mechanism to enhance investor protection, market integrity, and confidence, appreciated CIRO's responsiveness to feedback, and remains open to further engagement on this and other regulatory matters.

### CIRO - Rule Consolidation Project - (Phase 4 Proposed DC Rules)

Submitted January 24, 2025

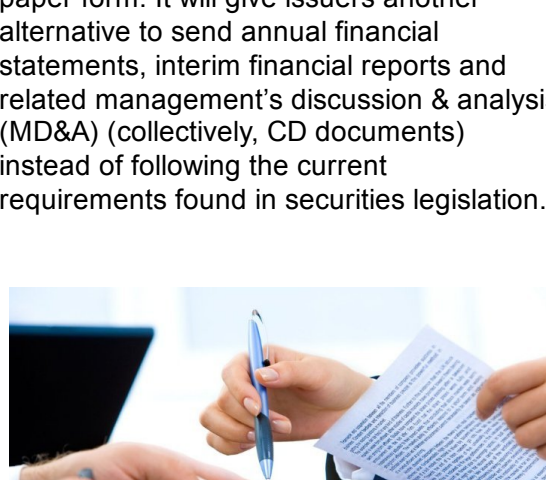
The Canadian Advocacy Council (CAC) provided comments on the Rule Consolidation Project—Phase 4 proposed by the Canadian Investment Regulatory Organization (CIRO). The CAC generally supported CIRO's approach of adopting the more stringent rule when merging the Investment Dealer and Partially Consolidated (IDPC) Rules and the Mutual Fund Dealer (MFD) Rules, as it enhances investor protection without excessive cost burdens.

Key points from the Council's response included:

- Definition of "Investment Product":**
  - The CAC supported the revised definition, which clarifies dealer obligations. They recommended further guidance on exclusions and closing regulatory gaps for collective investment vehicles with lighter regulatory coverage and non-traditional assets like cryptoassets.
- Chief Financial Officer (CFO) Requirements for Mutual Fund Dealers:**
  - The CAC supported requiring CFOs for mutual fund dealers but suggested limited exemptions for smaller dealers or those with simple business models.
- Proficiency Requirements for Ultimate Designated Persons (UDPs):**
  - The CAC agreed with aligning UDP proficiency requirements with IDPC Rules for all UDPs but supported a transition period for legacy UDPs. They suggested CIRO-led training to ease the transition.
- Approved Person Regime for Mutual Fund Dealer Directors:**
  - The CAC supported including mutual fund dealer directors in the Approved Person regime, except for those classified as "permitted individuals" under securities regulations.
- Transition Period for Approved Persons:**
  - The CAC generally opposed extended transition periods except for UDPs, given the lengthy consultation already in place for rulebook consolidation.
- Prohibition on Control Over Client Affairs:**
  - The CAC supported prohibiting Approved Persons from acting as power of attorney, trustee, or executor for clients, with a potential exception for independent directors.
- Prohibition on Being Named as a Beneficiary:**
  - The CAC supported prohibiting employees from being beneficiaries of client estates, again suggesting a potential exception for independent directors.

### Response Drafting in Progress

### Canadian Advocacy Council



### CSA - Proposed Amendments to Modernize Continuous Disclosure Regime for Investment Funds

Due January 31, 2025

The Canadian Securities Administrators (CSA) have published for comment a series of proposed amendments aimed at modernizing the continuous disclosure regime for investment funds. These proposals are designed to provide investors with more focused and valuable disclosure while reducing the regulatory burden on investment fund managers.

The CSA proposes to replace the existing annual and interim Management Report of Fund Performance (MRFP) with a new annual and interim Fund Report.

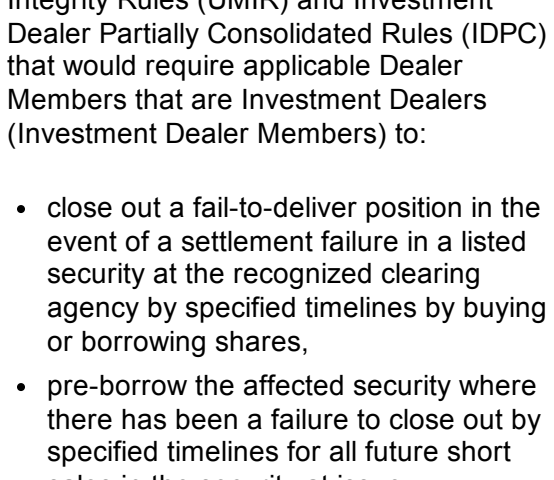


### OSC - 81-737 - Improve Retail Investor Access to Long-Term Assets through Investment Fund Product Structures

Due February 7, 2025

The Ontario Securities Commission (OSC) published a consultation paper aimed at improving retail investor access to illiquid investments through a framework proposal for a long-term asset investment fund product structure.

The consultation proposes the creation of a new investment fund category, the Ontario Long-Term Asset Fund (OLTF), which would allow Ontarians to invest in assets they may not traditionally have exposure to. These assets include venture capital, private debt and equity, and infrastructure and natural resource projects.

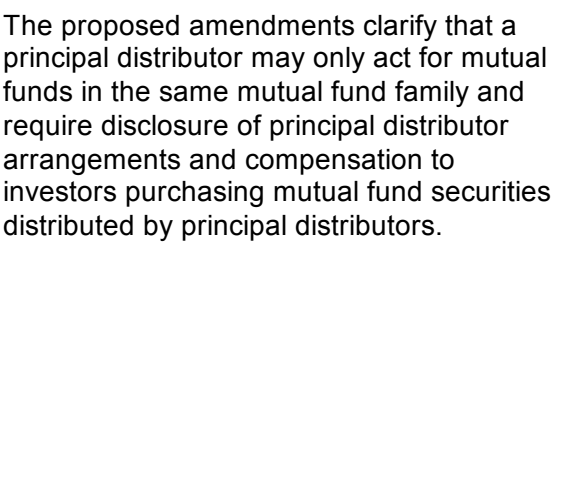


### CSA - Proposed Access Model Changes for certain disclosure documents of non-investment fund reporting issuer

Due February 17, 2025

The Canadian Securities Administrators (CSA) is seeking feedback on proposed amendments and changes to implement an access model for certain disclosure documents of non-investment fund reporting issuers (the Proposed Access Model).

The Proposed Access Model aims to modernize the way documents are made available to investors by allowing issuers to provide investors with electronic access to certain continuous disclosure documents without impacting investors' ability to request, or provide standing instructions to receive, those documents in electronic or paper form. It will give issuers another alternative to send annual financial statements, interim financial reports and related management's discussion & analysis (MD&A) (collectively, CD documents) instead of following the current requirements found in securities legislation.



### CIRO - Non-tailored Advice in the Order Execution Only Channel

Due February 26, 2025

The Canadian Investment Regulatory Organization (CIRO) is evaluating the limitation of advice in the order execution-only channel.

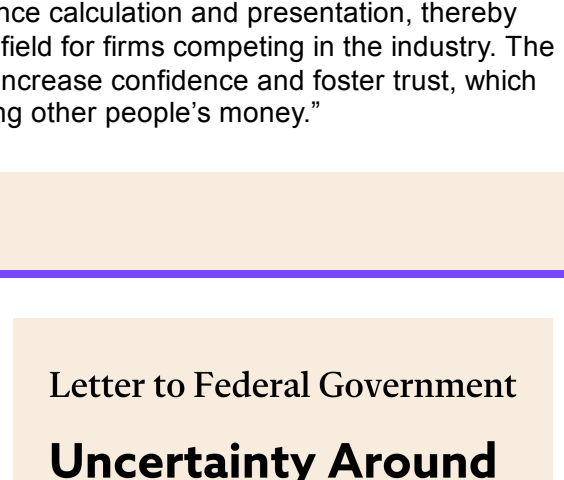
The do-it-yourself (DIY) investing segment is experiencing significant growth and evolution, with many investors new to DIY investing often relying on non-traditional sources of information and advice. This initiative aims to ensure that such advice does not diminish the value of established, robust advisory channels, thereby preventing any potential confusion between the two.



### CIRO - Proposal to Harmonize CIRO Continuing Education (CE) Programs

Due March 18, 2025

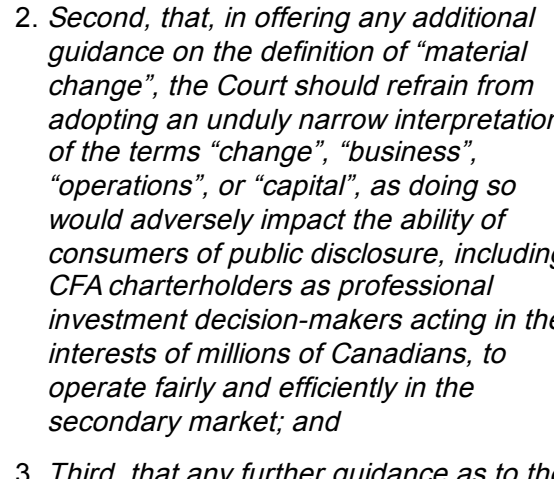
The Canadian Investment Regulatory Organization (CIRO) is proposing rule amendments to its continuing education (CE) programs under the Investment Dealer Partially Consolidated (IDPC) Rules and the Mutual Fund Dealer (MFD) Rules as part of its commitment to developing harmonized Continuing Education (CE) rules.



### CSA - Applicability of Canadian Securities Laws and the use of Artificial Intelligence Systems in Capital Markets

Due March 31, 2025

The Canadian Securities Administrators (CSA) are seeking feedback on several consultation questions regarding its Staff Notice and Consultation 11-348 *Applicability of Canadian Securities Laws and the use of Artificial Intelligence Systems in Capital Markets*, which aims to provide clarity and guidance on how securities legislation applies to the use of AI systems by market participants including registrants, non-investment fund reporting issuers, marketplaces, and marketplace participants, clearing agencies and matching service utilities, trade repositories, designated rating organizations, and designated benchmark administrators.



### CIRO - Proposed Amendments Respecting Mandatory Close-Out Requirements

Due April 10, 2025

The Canadian Investment Regulatory Organization (CIRO) is proposing amendments to the Universal Market Integrity Rules (UMIR) and Investment Dealer Partially Consolidated Rules (IDPC) that would require applicable Dealer Members that are Investment Dealers (Investment Dealer Members) to:

- close out a fail-to-deliver position in the event of a settlement failure in a listed security at the recognized clearing agency by specified timelines by buying or borrowing shares,
- pre-borrow the affected security where there has been a failure to close out by specified timelines for all future short sales in the security at issue,
- provide certain reporting and notifications in connection with mandatory close-out requirements, and
- have a reasonable expectation to settle on settlement date for Investment Dealer Members that are not Participants under UMIR (Proposed Amendments).

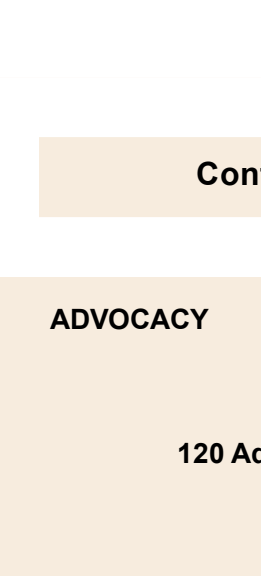
CIRO is publishing the Proposed Amendments in order to solicit comments on the best approach to:

- introduce mandatory close-out requirements to reduce fail-to-deliver positions involving securities with persistent failures to deliver, and
- establish a reasonable expectation to settle a trade on the expected settlement date for Investment Dealer Members that are not Participants.

**\*\*If you would like to participate or provide comments to ongoing initiatives, please contact [cac@cfacanada.org](mailto:cac@cfacanada.org)\*\***

### Volunteer Spotlight

### Canadian Investment Performance Council



**Benjamin Banyai, CFA, CIPM**  
Chair

Benjamin has served on the CIPM since June 2017.

Benjamin joined Burgundy Asset Management in 2014 and holds the position of Senior Manager, Reporting & Analytics. In this role, he leads projects focused on process improvement, analytics reporting, and data strategy while strengthening the firm's internal reporting and analytics capabilities. Before taking on his current role, Benjamin led a team responsible for analyzing and reporting on investment performance, attribution, and related statistics. He also managed the firm's GIPS® compliance and verification process.

Prior to his time at Burgundy, Benjamin spent seven years at State Street, including four years in increasingly senior performance measurement roles.

Benjamin graduated with a Bachelor of Commerce (BCOM) from the University of Toronto in 2006. He earned the Certificate in Investment Performance Measurement (CIPM®) designation in 2012 and became a CFA® charterholder in 2013.

### What is it about volunteering with the CIPM that appealed to you most?

"The CIPM provides an ideal opportunity for volunteers to connect, share insights, and promote best practices for investment performance measurement and the GIPS standards. The diverse experiences and perspectives of group members add significant depth to these discussions."

### Why do you think promotion of industry standards like the GIPS standards is important?

"The GIPS standards are important because they promote fairness in investment performance calculation and presentation, thereby creating a level playing field for firms competing in the industry. The Standards also help to increase confidence and foster trust, which is crucial when managing other people's money."

### News



### Supreme Court of Canada Appeal Update

**Lundin Mining Corporation, et al. v. Dov Markowich**

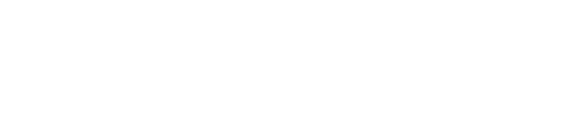
CFA Societies Canada News

**CFA Societies Canada's Intervention at the Supreme Court of Canada - Lundin Mining Corporation, et al. v. Dov Markowich**

Watch the [webcast](#) of the January 15th hearing, with CAC Chair Doug Sarro's recently published paper featured in questioning in the first hour, CFA Societies Canada's comments starting at the 2:27:30 mark.

CFA Societies Canada's primary written submissions were:

- First, that the Court should reaffirm the common sense, plain language interpretation of the definition of "material change" articulated in *Kerr v. Danier Leather Inc.*, 2007 SCC 44, and *Theratechnologies Inc. v. 121851 Canada Inc.*, 2015 SCC 18, which is well-understood by CFA charterholders and other consumers of public disclosure in Canada and gives meaningful effect to Canadian legislatures' desire to ensure a "level playing field" [reference to *Theratechnologies 2015 SCC 18*] in the secondary market.
- Second, that, in offering any additional guidance on the definition of "material change", the Court should refrain from adopting an unduly narrow interpretation of the terms "change", "business", "operations", or "capital", as doing so would adversely impact the ability of consumers of public disclosure, including CFA charterholders as professional investment decision-makers acting in the interests of millions of Canadians, to operate fairly and efficiently in the secondary market; and
- Third, that any further guidance as to the distinction between a "material fact" and a "material change" should recognize that a "material change" will crystallize once management or the Board of an issuer determines that an external event which, on its own may be only a "material fact", will result in a change in the business, operations, or capital of the issuer.



### Letter to Federal Government

### Uncertainty Around Capital Gains



CFA Societies Canada News

**CFA Societies Canada and CPA Canada Co-Sign Letter to Federal Government**

In a recent [joint letter](#) to the federal government, CPA Canada and CFA Societies Canada express concerns about the uncertainty surrounding the Canada Revenue Agency's (CRA) administration of the proposed capital gains inclusion rate increase. Due to the prorogation of Parliament, the motion must be reintroduced, creating uncertainty for taxpayers, advisors, and investment funds. This uncertainty complicates tax reporting for investment funds (particularly those structured as trusts), which must make early distribution decisions, and may be constrained in their ability to make and report corrections to taxable income and/or relevant factors.

The letter urges the government to either delay the effective date of the changes to January 1, 2025, or direct the CRA to deviate from the common practice of "provisional implementation of taxation" to avoid unnecessary administrative burdens. The authors emphasize the urgency of resolving this issue to minimize disruptions and burden.

Read the full version of the letter below:

- [English version](#)
- [French version](#)



### Performance Topic: Careers in Investment Performance Measurement

CIPM News

**Performance Topic: Careers in Investment Performance Measurement**

Check out the CIPM's latest [post](#) on LinkedIn, which discusses careers in investment performance measurement, what the profession entails, and what practitioners do daily.

This post is a great resource to share with colleagues or new hires interested in entering into this exciting field.



### Introduction to the GIPS® standards

### Guidance Statement for OCIO Portfolios

CFA Institute News

**Guidance Statement for OCIO Portfolios Webinar (February 6)**

CFA Institute recently issued the [Guidance Statement for OCIO Portfolios](#) and will be offering a webinar on Thursday, February 6, 2025, from 1 p.m. to 2 p.m. EST, to review key concepts from the Guidance Statement.

A representative from Cerulli Associates will also review highlights from its recently issued 2024 report on the OCIO function.

### Research, Advocacy, Standards and Professional Learning



### The Sustainability Story

Podcast

**Roman Kramarchuk: Navigating Carbon Markets—Insights from COP29 and Beyond**

In this episode of "The Sustainability Story," host Deborah Kidd, CFA, and Roman Kramarchuk, Head of Climate Markets and Policy Analytics at S&P Global Commodity Insights, delve into the significance of Article 6 adoption at COP29 and its implications for the role of carbon markets in achieving net-zero goals.

Roman shares insights from his extensive experience in public policy and emissions and environmental markets. Their discussion also explores the use of carbon taxes versus carbon markets to achieve emissions reductions and the challenges that have been faced by voluntary carbon markets.



### Enterprising Investor

Podcast

**Olivier Fines, CFA, and Mark Higgins, CFA: The Role of the U.S. Dollar as a Global Reserve Currency**

In this episode, host Mike Wallberg, CFA, welcomes Olivier Fines, CFA, Head of Advocacy and Capital Markets Policy Research for EMEA at CFA Institute, and Mark Higgins, CFA, author of "Investing in U.S. Financial History." The discussion centers around the findings of a recent CFA Institute Research and Policy Center report titled "The Dollar's Exorbitant Privilege," which Olivier co-authored.

Olivier shared insights from the survey report, and Mark provided a historical perspective on reserve currencies and events that have triggered shifts away from dominant currencies in the past. This engaging conversation provides valuable insights into the complexities of US debt, the role of the dollar, and the historical context that shapes our current financial system.



### Investment Innovations Toward Achieving Net Zero

CFA Institute Research & Policy Center

The Canadian Advocacy Council, on behalf of CFA Societies Canada, advances investor protection, industry professionalism, market integrity and transparency to the benefit of society.



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Next CAC Meeting Scheduled: Tuesday, February 11 at 4:15 pm EST.

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