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VIA EMAIL

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**Re: Non-tailored Advice in the Order Execution Only Channel (the “Consultation”)**

The Canadian Advocacy Council of CFA Societies Canada (the “CAC”)<sup>1</sup> appreciates the opportunity to provide the following general comments and responses to the specific questions set out below.

In our view, as a genre, do-it-yourself (“DIY”) investing informed by internet resources, whether social media, forums, or influencers, is here to stay and seems likely to grow in the years ahead with the youngest investor cohort of ‘Generation Z’ investors most likely to look to influencers for information and guidance, as detailed in the CFA Institute Research & Policy Center’s recent report on influencers<sup>2</sup>. To evolve in protecting investors and to safeguard the integrity and fairness of our capital markets, we agree that regulation should continue to evolve for CIRO investment dealers that offer order execution only account services (“OEO Dealers”), as gatekeepers, to better help DIY investors make prudent decisions, be aware of where online and influencer content may have embedded and undisclosed conflicts, and not succumb to scams or otherwise problematic influences. We believe generally that keeping as much investor activity (that would occur either way) inside the regulatory perimeter and subject to regulatory principles and oversight should be the guiding principle in evolving regulation in this area.

Accordingly, our general position is that we support permitting OEO Dealers to include, as part of their platforms and service offering to clients, an expanded ability to offer non-tailored advice with a wide scope of corresponding tools, while offering new guidance as to what constitutes personalized recommendations and advice that falls outside of the appropriate bounds of an OEO Dealer offering. However, such OEO Dealers must also

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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 21,000 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.

As the global association of investment professionals, CFA Institute sets the standard for professional excellence and credentials. The organization is a champion of ethical behaviour in investment markets and serves as the leading source of learning and research for the investment industry. CFA Institute believes in fostering an environment where investors’ interests come first, markets function at their best, and economies grow. With more than 200,000 charterholders worldwide across 160 markets, CFA Institute has ten offices and 160 local societies. Find us at [www.cfainstitute.org](http://www.cfainstitute.org) or follow us on LinkedIn and X at @CFAInstitute.

<sup>2</sup> “The Influencer Appeal: Investing in the Age of Social Media”, CFA Institute Research & Policy Center, 2024, Online: [influencer-report.pdf](#)



be required to adequately manage new conflicts that these service offerings and tools may introduce, and guard against practices that may place their own interest above their clients. As such, we think the guiding principle in evolving OEO Dealer regulation relating to the bounds of non-tailored advice (and appropriateness of associated OEO Dealer-offered tools) should be an onus on the OEO Dealer to evaluate the enablement and promotion of new tools in a principles-based manner such that the net effects to investor/client behaviours are considered, and where those tools' base configuration and promotion to clients is done so in a way that is contributive to positive investor behaviour, such as increasing awareness of risks, the value of diversification, fee minimization, reducing cash drag on portfolio returns, and the like. This does not necessarily mean that other uses for any offered tools should be restricted for those OEO Dealer clients who choose to configure them for other purposes, but we believe it's an important distinction between the widest-possible configurable uses of tools which may have niche or specialist uses, and the most widely-promoted and base-configured use-cases to the bulk of OEO Dealer clients, which could have wide utility in promoting improved client behaviours.

Where newly-offered tools or services introduce actual or potential conflicts of interest, such as introducing perceptions of advice from online sources, or product-specific recommendations where certain products may be managed by affiliates of the OEO Dealer, we believe there should be strong principles-based regulation promoting the clear disclosure, avoidance and management of conflicts (such as through mandatory conflict disclosures with dealer-diligence/review onus for platformed influencers, and open-access shelf access principles for utilized investment products). And where new tools are not reasonably useful for any investor-positive purposes, such as those purely to enable non-productive gamification of trading, or to promote use of higher-risk derivatives in lieu of less complex securities (or those securities/strategies with higher effective fees) to those investors without the knowledge to otherwise navigate those securities, we believe there should be clear principles for dealers to deem those tools to be not appropriate to offer to clients, promoted or otherwise.

Below are our responses to the specific questions highlighted.

**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?**

We would support the ability of OEO Dealers to provide a wide array of pre-configured and user-configurable notifications and alerts, with the general caveat that such notifications and alerts should not be pre-configured or suggested for services that are entirely speculative in nature, and generally inconsistent with promoting positive investor behaviour. We believe promoted or suggested configuration of notifications and alerts should have a principles-based framework for regulation and could be based on investor-positive concepts from modern portfolio theory, including growing awareness of diversification benefits and concentration risk, optimizing risk and return, liquidity risks/warnings, minimizing fees and cash drag, and alert to corporate actions, among

others. We are not in favour of wide prohibitions restricting a sophisticated user's ability to configure alerts on conditions entirely of their choosing (without OEO dealer suggestion or preconfiguration) but believe that this will be limited to a subset of clients of lesser regulatory concern, and that the behavioural nudges of base configurations, suggestion and promotion to the bulk of OEO Dealer clients is an important distinction to maintain for regulatory oversight. We would also support suggested and promoted preconfigured notifications and alerts to allow investors to track changes to their portfolios' weightings against set asset allocation weightings or model portfolios, to facilitate and encourage periodic rebalancing at a reasonable frequency (again, an investor-positive behaviour to encourage).

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

We believe that a principles-based approach as outlined above with the onus on the OEO Dealer to justify its suggested base notification/alert configurations is the best regulatory approach. Where conflicts with Dealer or affiliate interests are a concern, such as through the promotion of excessive trading or to invest in the OEO Dealer's (or its affiliate's) own products or products that generate them the most revenue, we believe again that principles of conflict avoidance/disclosure/management and fair access are required. However, we don't believe that the wider user/client-configurable alert or notification settings should be unduly restricted, and that fairly wide allowance of configurable parameters should be allowable.

**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?**

We would support functionality that would allow OEO Dealer clients/investors to integrate or build and manage their portfolios to model portfolios and set asset allocation weightings. Supporting tools, such as the ability to track and receive alerts regarding portfolio risk, changing model portfolio composition, portfolio drift, cash balances, or news on securities, to name a few, would also be helpful.

We believe the allowance and prohibition of tools and services should be based in a principles-based framework of requirements for an OEO dealer as outlined above.

(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?**

We would support guidance allowing for model portfolios to reference specific securities to better facilitate investor actions to align their portfolios to model portfolios that are designed to meet their general self-identified objectives, while not being personalized to



their individual circumstances. However, we have conflict of interest concerns relating to the potential that OEO Dealers may use this tool to promote proprietary or Dealer-affiliate managed products where other comparable alternative securities (particularly in case of investment funds or comparable products) exist. As such, OEO Dealers should be required to act as a neutral arbiter in this regard, and reference a number of acceptable alternative securities (particularly in the case of funds or ETFs or the like) as part of the model portfolio, along with the ability to filter the options based on certain features or characteristics such as manager, fees, benchmark-relative performance, underlying securities, etc. We believe this is a particularly acute concern as it relates to structured products with embedded derivatives. We believe that this regulatory requirement will further promote the policy aims of this regulatory framework, to help investors make their own investment decisions, while also mitigating the conflict-of-interest concerns. We believe there should also be regulatory requirements to monitor the volume/frequency of recommended trading relating to model portfolios, controls as to the source of model portfolios (ideally, a securities registrant in a PM category), and oversight of the fair availability and distribution of model portfolio changes to interested OEO Dealer clients.

**(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?**

We support allowing OEO dealers to offer these tools. Given that model portfolios may apply generally to certain segments or classes of investors with certain defining characteristics that are relatively easily identified, we see it as a natural extension that OEO Dealers should be allowed to provide the supporting tools necessary to meaningfully select a model portfolio, i.e., the ability to determine the class/segment of investor and their core needs/constraints relating to model portfolios. In the absence of providing self-assessment tools, investors might rely on third-party/online channels to make this determination or rely on guesswork, which exist outside of the regulatory perimeter, not subject to the review of any registrant firm, and which may be inaccurate and lead to less positive investor outcomes.

**(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)?**

We would not support limitations on filters, but again believe the allowance and prohibition of these tools best exists in a principles-based framework of requirements for the OEO dealer to do diligence and make platform decisions, subject to regulatory requirements and review. We envision these channels as being accessible to all investors, and also providing adequate support for various types of investors, whether differing in experience, sophistication, life stage or other attributes. By providing additional flexibility to OEO Dealers on this front, we hope in pursuit of creative design



and competition between OEO Dealers, investors are presented with the best platforms to suit their needs. As with other tools, we have concerns relating to conflicts in preferencing certain securities where conflicts may exist, and believe this is best controlled for through a principles-based approach.

**(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)?**

We do not see combining tools as a negative investor behaviour, rather to the contrary, developing investment expertise and positive investing behaviours through interacting with such tools should be encouraged. We anticipate that over time, the availability of such tools and accompanying guidance that may develop would result in positive investor outcomes. However, we would highlight again the need for principles-based regulation governing baseline configuration of tools, and promotion/suggestion of tools' interactions by the OEO Dealer that should be grounded in promoting positive investor behaviours, without unduly limiting more sophisticated investor/client abilities to configure tools to their own purposes.

**(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?**

We are in support of providing greater allowance for the use of limited client-specific information in notifications and alerts, subject to the provisions and principles-based framework cited above in support of suggested uses and baseline configuration in support of positive investor behaviours, where we've cited reducing cash drag as one such investor-positive behaviour that should be both allowable and encouraged.

**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?**

We do not support permitting referral arrangements between non-registrant finfluencers and OEO Dealers. In our view relating to unregistered finfluencers, referral arrangements between the two may be seen as the OEO Dealer providing tacit endorsement of or adding credence to the opinions of the finfluencer, where the OEO



Dealer does not have the process or position to be doing the necessary diligence on what may tacitly be seen as endorsement of a recommendation to trade, which exists outside of the regulatory .

Given consumers of such media may place considerable weight on the advice provided by the finfluencer, the additional impact of a referral arrangement with an OEO Dealer compounds the risk that misleading advice could be relied upon by investors to their detriment. Further integration between the trading platforms provided by OEO Dealers and finfluencers would then compound the harm, and not be in the spirit of the principles-based framework for OEO dealer tools we've advocated for above. We're of the view that a principles-based regulatory framework for OEO dealers, with a view to keeping influencer activity and endorsement inside the regulatory perimeter should guide CIRO here.

In the case of finfluencers not being registrants, we are concerned that in the absence of satisfying the proficiency requirements and being subject to day-to-day oversight of activity and conduct, unregistered finfluencers may operate more freely in a conflicted manner and take advantage of investors, whether intentionally or not. Unregistered finfluencers are less likely to understand (or be entirely ignorant of) the disclosure requirements required of registrants. Even in circumstances where the finfluencer is registered, we have residual concerns about lack of coverage of these activities in the existing regulatory regime.

Whether registered or unregistered, the risk remains that a finfluencer displaying ties with an OEO Dealer may appear to impressionable investors to be legitimized by the OEO Dealer. As monitoring in the context of referral arrangements may be periodic, there will be room for investor harm to take place unbeknownst to the OEO Dealer. However, if these arrangements are permitted in future, at a minimum, the requirement should be that these arrangements are only available for registered finfluencers, to provide some additional comfort, and we would urge regulators generally to parameterize related acceptable activity and a principles-based regulatory framework for both registered finfluencers' activities in this area and OEO Dealers before this market develops further.

#### **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?**

In our view, central to the order execution only channel is the notion that investors should ultimately make their own investment decisions. Providing “copy trading” functionality simplifies the investment decision making process and could allow for investors to dissociate from engaging in that process in a meaningful way, and perhaps be vulnerable to misleading influences from unregistered and potentially conflicted finfluencers or other OEO Dealer clients.



We recognize that less mechanized copy trading can still occur in the absence of providing such functionality, however, in our view, the process of having to manually copying trades inserts a sufficient lag between individual trades to create the potential for further contemplation. As such, we do not believe OEO Dealers should facilitate copy trading of influencers or other non-registered investors on the same OEO Dealer platform by introducing automated functionality.

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

We are not in support of enabling copy trading as contemplated, except in instances where it's enabling automated orders to follow a model portfolio or other preconfigured portfolio provided by a registrant firm and subject to a system of regulatory oversight for platform enablement and monitoring.

**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?**

We believe that the more control the OEO Dealer has over the provision, integration with OEO Dealer systems, configuration options, and medium of tool information and tool delivery, the more concern and regulatory requirements there should be on the OEO Dealer's related obligations. Because the OEO Dealer's website and app environment would be totally curated and configurable by the OEO Dealer, we believe there should be a robust regulatory framework with associated for the allowance, configuration and promotion of tools.

**Concluding Remarks**

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 the future.

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

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