

**Oct 22, 2025**

**Submitted via Email**

**Attention:** Phil Devault, Vice President, Member Regulation Policy

**Member Regulation Policy**

Canadian Investment Regulatory Organization  
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Dear Mr. Devault:

**Re: Proposed guidance on order execution only account services and activities**

We are pleased to provide comments in response to CIRO's consultation on the proposed guidance on order execution only (OEO) account services and activities (the "**Proposed Guidance**"). This letter is submitted on behalf of TD Waterhouse Canada Inc. ("**TDW**" or "**we**").

We believe that the Proposed Guidance establishes a strong foundation to achieve CIRO's objective of providing flexibility to OEO Dealers to better service evolving client needs through reliable, timely, useful information in a manner that respects regulatory parameters on recommendations. However, we believe that with certain enhancements and clarifications (particularly, allowing sample portfolios that are more practical for investors, defining "specific investment decision" and providing clarity around combined decision-making supports) the Proposed Guidance can more effectively meet this objective.

This letter sets out our general views on the proposed guidance, our responses to the specific consultation questions and our comments on areas of the Proposed Guidance that we believe would benefit from further revision and/or clarification.

**General Comments on the Proposed Guidance**

We appreciate CIRO's efforts to adopt a principles-based approach in the Proposed Guidance, recognizing that such flexibility is particularly important given the ongoing and rapid evolution in technology. We also acknowledge that it is evident from a review of the Proposed Guidance that CIRO has given thoughtful consideration to industry comments that were made in relation to the previous consultation on non-tailored advice and has incorporated some of these perspectives into the Proposed Guidance.

The Proposed Guidance also reflects the findings from CIRO's April 2025 qualitative research report on DIY investing, namely that DIY investors are seeking decision-making supports, such as alerts and notifications, filtering tools, and self-assessment tools (among others) that deliver actionable insights, while preserving investment decision-making independence at the same time.

With respect to maintaining this independence, we reiterate our position related to automated copy-trading. Automated copy trading (which we would define as allowing investors to replicate the trades of another investor automatically, including via pre-filed order tickets) allows (even encourages) investors to blindly rely on the views and the trading style of unregistered individuals, without conducting their own research or developing their own, independent understanding about the risks and costs of the transactions they are automatically copying. Automated copy trading is, in essence, discretionary portfolio management because it delegates investment decision-making to a third party whose trades are automatically executed in the client's account without the client's active involvement.

This practice is not only likely to harm investors (as it would expose them to risks associated with total reliance on trading strategies or products promulgated by unregistered individuals, it would also leave them without a means for redress or compensation for such harm, given they are relying on third parties that are not themselves subject to any governance or oversight or regulation. It would essentially erode the distinction between OEO services and full-service advisory accounts, without the added benefit of investor protection afforded to clients of discretionary investment advisors, undermining the regulatory structure with clearly delineated business models.

However, we support allowing OEO dealers to provide illustrative samples of other investors' investment holdings or approaches, as it can inform decision-making without undermining investor autonomy. This could be, for example, presenting information on what clients are most commonly buying and selling at a point-in-time.

## **Responses to CIRO's Consultation Questions**

### **Question 1**

**The Proposed Guidance sets out a non-exhaustive list of key safeguards for OEO Dealers to consider when offering decision-making supports to clients. Are there any additional safeguards you believe should be included to further enhance investor protection in the OEO channel? If so, please specify**

We are generally supportive of the proposed safeguards set out in the Proposed Guidance and understand their importance to investors' protection.

However, in keeping with the principles-based approach of the Proposed Guidance, we believe OEO Dealers should be given the latitude to determine which safeguards are most appropriate for the particular decision-making supports that they provide. Safeguards should be presented as examples or best practices rather than prescriptive, mandatory requirements. This flexibility allows OEO firms to tailor protections in a way that is most meaningful and relevant to investors. It would allow for safeguards to effectively enhance investor understanding, without imposing unnecessary constraints or complexity for the investor.

We also caution that the safeguards should not result in over-disclosure, as this could risk obscuring the key points or warnings intended by the disclosure. Minimizing over-disclosure helps investors to focus on the most important information, which further supports informed decision-making.

Finally, we believe OEO Dealers should not be required to describe the detailed methodology underlying their decision-making supports, as these may be proprietary or subject to restrictions under agreements with third-party providers. Instead, we recommend providing high-level descriptions of the approach, accompanied by plain-language disclosures that clearly communicate relevant information to investors. Overly technical information may confuse clients and reduce the effectiveness of the disclosure, whereas clear, high-level explanations allow investors to understand the key considerations of the tool without being overwhelmed.

## Question 2

**As discussed in section 2.2.2(d) above, the Proposed Guidance permits OEO Dealers to provide sample portfolios that can be used in combination with filtering tools so that clients can receive support from OEO Dealers on asset allocation at the portfolio level, while still remaining responsible for their own specific investment decisions.**

- 1. Do you agree that this approach appropriately balances OEO Dealers' desire to provide sample portfolios with investor protection concerns (particularly around conflicts of interest)?**

We support the use of sample portfolios with filtering tools as contemplated in the Proposed Guidance. However, we believe the guidance should be broadened to permit the inclusion of specific securities when these are presented for illustrative or educational purposes.

DIY investors are interested in seeing specific securities within sample portfolios not necessarily to replicate or act directly on those examples, but because they are seeking ideas. Providing concrete illustrations helps investors better understand how asset allocation concepts or strategies may be applied in practice, making the educational value of sample portfolios more meaningful. Asset allocation-only tools are already permitted, and research shows that these tools are underutilized and generally not effective in meeting investors' needs.

Any potential conflicts of interest arising from the inclusion of specific securities can be appropriately addressed under the well-established conflict of interest framework in CIRO rules. Managing conflicts is not new for OEO Dealers, and there are existing tools to mitigate these risks. For example, firms could: provide clear disclosure when affiliated products are shown; ensure a balanced selection of securities to avoid bias; and apply governance oversight to review the rationale for securities included. These mitigants can be coupled with explicit statements that the securities are for illustrative purposes only and not recommendations. These measures would align with regulatory expectations while supporting DIY investors' desire for more concrete examples.

- 2. If you do not agree with this approach, please describe how can OEO Dealers could provide sample portfolios that reference specific investment products but do not constitute a prohibited recommendation under the revised recommendation prohibition. Recall that (as set out in 2.1 of the Proposed Guidance) OEO Dealers cannot avoid the revised recommendation prohibition by simply stating that a sample portfolio is not tailored to a specific client if, in every other regard, it meets the test of a recommendation.**

We believe there are various ways that OEO Dealers can provide sample portfolios referencing specific investment products without crossing into prohibited recommendations. The below suggested safeguards would be more appropriate than an outright ban.

In addition to the use of clear disclaimers, safeguards could include: ensuring the sample portfolios are non-personalized or generated through client-driven customization; clearly labelling them as educational or illustrative; allowing investors to edit or customize the portfolios; presenting a number of different securities rather than a single product; limiting examples to diversified products such as ETFs or mutual funds; and offering multiple sample portfolios to avoid the impression that any one portfolio is a recommendation. Using one or more of the above safeguards is sufficient for an investor to reasonably conclude that the OEO Dealer is not providing a recommendation or endorsing a specific investment decision.

This approach ensures that no single product or portfolio is implicitly endorsed, while still giving DIY investors the practical illustrations they find most useful.

### **Question 3**

**Consistent with a principle-based approach, we have abstained from listing extensive examples in the Proposed Guidance of decision-making supports and whether or not they would be considered prohibited recommendations. We believe this is crucial for the Proposed Guidance to remain technology-neutral and allowing OEO Dealers to create new decision-making supports without being hindered by a point-in-time, binding analysis in the Proposed Guidance. However, throughout the consultation process, feedback continues to be varied as to whether the industry would benefit from CIRO providing more examples.**

**Would commenters like CIRO to publish an analysis of different decision-making supports as against the revised recommendation prohibition in a supporting document alongside the Proposed Guidance? If so, please submit examples for which you would like that analysis.**

We do not have any specific requests for CIRO at this time. We continue to support CIRO's principles-based approach, enabling the registrants to use the proposed safeguards, in whole or in part, as appropriate to context of the situation, to make sure they are aligned with and achieve the objectives of the Proposed Guidance.

### **Question 4**

**In its Executive Summary, the Proposed Guidance indicates that it does not contemplate an OEO Dealer that restricts its product shelf largely to proprietary or affiliate products, or a very limited range of products, because of the revised recommendation prohibition and conflicts of interest implications.**

- 1. Do commenters disagree with this position? If so, please describe in what ways the material conflict that arises in this scenario (such as filtering tools generating results that only reference proprietary or affiliate investment products) could be appropriately addressed in the best interests of the client instead of avoided.**
- 2. In the case of an OEO Dealer that offers a very limited range of products, how could an OEO Dealer ensure that decision-making supports do not offer so few options that it**

**ultimately endorses specific investment products? For example, should such OEO Dealers be required to generate a minimum number of options to offer certain tools (such as filtering tools when used in combination with sample portfolios)?**

While we agree that conflicts of interest must be managed carefully, we believe the Proposed Guidance should not be restricted from being used by proprietary OEO Dealers or OEO Dealers with a limited range of products.

Investors choose to engage with a limited or proprietary shelf. The limitations of the OEO Dealers' product offering are required to be clearly disclosed, and there are options in the OEO market if a client wants a broader offering. In particular, for OEO Dealers that are comprised of multiple shelves (e.g., both an open product shelf and a closed or limited product shelf) clients are informed and aware, before and while being onboarded, that broader options exist within the firm for different platforms through different branding, disclosures and acknowledgements. Excluding proprietary or limited-shelf dealers from relying on the Proposed Guidance would unnecessarily narrow its applicability and thereby deny clients of such OEO Dealers access to valuable decision-making supports and benefits.

Specific to filtering tools, these can be labelled as educational or illustrative, present multiple products, where they exist, and have the ability to be adjusted by the client. The client is fully aware that the use of filtering tools is only applicable to the universe of products that have already been disclosed, acknowledged and accepted.

The Proposed Guidance is principles-based, and OEO Dealers should therefore retain the ability to apply those principles as appropriate to their own business models and the clients that use them. An OEO Dealer should be able to determine, based on the guidance, whether a communication or tool constitutes a specific investment decision.

### **Further Refinement or Clarification**

#### ***Push of Research Reports***

We disagree that if an OEO Dealer proactively forwards research reports directly to clients, that clients may misinterpret these general recommendations to be endorsed by the OEO Dealer.

As long as research reports with buy/sell/hold recommendations are accompanied by clear disclaimers that they are not personalized recommendations and not an endorsement of the OEO Dealer of specific investment decisions, OEO Dealers should be allowed not only to make these reports available in a general research library, but also to proactively send such reports to clients.

Investors expect to have the option or ability to receive timely research insights in their inbox or platform notifications, rather than having to search for them.

#### ***Clarification on Prohibition Language***

We recognize the efforts CIRO has made to narrow the definition of a recommendation, clarifying that a recommendation is only prohibited if it endorses a specific investment decision for the client.

We recommend that CIRO clearly define what constitutes a “specific investment decision.” Understanding clearly what is meant by this term is essential for the guidance to be implemented and applied in a consistent manner across the industry. Without a clear definition, there is a risk of inconsistent interpretation and application by OEO Dealers and may take overly conservative positions that restrict client access to useful tools, or result in other unintended outcomes.

We suggest that CIRO defines a "specific investment decision" as: “directly and expressly endorsing or recommending the purchase, sale, or holding of a particular security.” Providing factual, comparative, or educational information, including references to specific securities, should not be viewed as "endorsing" an investment decision where there is no direct or explicit encouragement by the OEO Dealer for a client to take investment action. This clarity would, in part, give OEO Dealers greater certainty while still upholding the integrity of the recommendation prohibition. More may be needed in terms of how this applies with respect to combining tools.

The Proposed Guidance seems to suggest that even if individual decision-making supports are compliant, the combined effect of multiple supports could still be considered a recommendation. This creates a fundamental ambiguity and increased complexity that increases regulatory risk from the content of any single tool to consideration of how different tools might be perceived when taken together.

This introduces a new and arguably more complex gray area for which OEO dealers must account. This can result in a chilling effect on innovation and could discourage regulated firms from offering the very tools that could reduce reliance on less reliable and unregulated sources.

We recommend, in line with the principles-based approach, that CIRO make it clear that individually-compliant trade supports will not be treated as "recommendations" when presented together, provided they are subject to appropriate safeguards. For example, if the OEO Dealer has created a user interaction experience or user flow, where the clients are creating their own journey vs being directed by the OEO Dealer, this could not be reasonably interpreted as endorsing a specific investment decision.

We appreciate the opportunity to provide our comments and welcome the opportunity to discuss these important issues with you in further detail. A collaborative effort between CIRO and OEO dealers will be critical for ensuring the Proposed Guidance meets its objective. Should you require any further information please do not hesitate to contact us.

Paul Clark,

A handwritten signature in black ink, appearing to be 'Paul Clark', written over a white background.

Senior Executive Vice President, Wealth Management