

DELIVERED BY EMAIL

November 10, 2025

Canadian Investment Regulatory Organization
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Attention: Member Regulation Policy

Dear Sirs/Mesdames:

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

We thank CIRO Member Regulation Policy for requesting feedback on proposed new guidance on order execution account services and activities (Proposed Guidance). We applaud CIRO for reconsidering whether Guidance Note 3400-21-003 - *Guidance on order execution only account services and activities* (the current OEO Guidance) continues to serve the needs of the self-directed investing segment in Canada. The profile of an average retail investor is changing, and how they invest is changing. A growing number of investors are choosing the do-it-yourself (DIY) approach or a hybrid of DIY and advised accounts. We support CIRO adopting a principles based approach in the Proposed Guidance, which we believe will enable order execution only dealers (OEO Dealers) to offer tools and information that assist DIY investors in making decisions regarding their investment portfolio and improving their investing outcomes.

About Wealthsimple

Wealthsimple is one of Canada's fastest growing and most trusted financial services platforms. We offer a full suite of simple, sophisticated financial products across managed investing, do-it-yourself trading, cryptocurrency, tax filing, spending and saving. Wealthsimple currently serves 3 million Canadians and holds \$100 billion in assets under administration. Wealthsimple was founded in 2014 by a team of financial experts and technology entrepreneurs, and is headquartered in Toronto, Canada.

Wealthsimple has a track record of launching innovative and inclusive financial products, including digital advice, Canada's first Shariah-compliant ETF and fractional shares trading. In 2020 we became Canada's first regulated crypto platform and, in 2022, we became the first ever non-bank, non-credit union to be granted approval for a settlement account with the Bank of Canada. This progress has been possible due to early and ongoing engagement with the CIRO and other regulators.

General Comments on the Proposed Guidance

Definition of Recommendation

We are supportive of CIRO clarifying the Recommendation Prohibition (as defined in the Proposed Guidance) and updating the current OEO Guidance. We applaud CIRO for the amount of thought, work and consultation that has already gone into the Proposed Guidance. However, we believe that CIRO abandoning the use of the term “non-tailored advice” risks creating new confusion for OEO Dealers regarding how to interpret the Recommendation Prohibition. Therefore, we continue to support CIRO guidance regarding the Recommendation Prohibition that is aligned with existing securities law and guidance. We believe that this may be done with relatively targeted drafting changes to the discussion of a “recommendation” in the Proposed Guidance.

We read the definition of “recommendation” in the Proposed Guidance in conjunction with the definition of “order execution only account” (OEO) in the Investment Dealer and Partially Consolidated Rules (IDPC Rules) as follows:

An account which is not subject to a suitability determination (other than as required by clauses 3402(3)(i) and 3403(4)(i)) where:

- (i) the client is solely responsible for making all investment decisions, and
- (ii) the Dealer Member provides **no endorsement of a specific investment decision for the client** to purchase, sell, hold or exchange any security, including any class of security or security of a class of issuer, or transact in any derivative.

Therefore, an OEO account is one in which the client makes all investment decisions, and the dealer provides no endorsement of a specific investment decision for the client to purchase, sell, hold or exchange a security or derivative.

The terms “tailored”, “advice” and “recommendation” are interconnected, and this connection is already articulated in the Companion Policy to National Instrument 31-103 (Companion Policy). Clause (ii) of the definition of an OEO account in the IDPC Rules is essentially the reverse formulation of the CSA’s description of “specific advice”. The Companion Policy states that the advisor registration requirement is triggered when the advisor provides “specific advice”. The Companion Policy goes on to state, “advice is specific when it is tailored to the needs and circumstances of a client or potential client. For example, an adviser who recommends a security to a client is giving specific advice” (emphasis added). Both National Instrument 31-103 and the Securities Act (Ontario) provide an exemption from the requirement to register as an adviser where the advice provided does not purport to be “tailored to the needs” of the person receiving the advice. Section 8.25 of the Companion Policy describes the circumstances under

which the Canadian Securities Administrators (CSA) would not consider advice about specific securities to be tailored to the needs of the recipient.

Therefore, CIRO's suggestion that because the term "advice" is not used in the Recommendation Prohibition there is no need to use this term in the Proposed Guidance risks creating more confusion, as the CSA has already provided guidance on when a recommendation amounts to advice and when it does not. We think it is relatively straightforward for CIRO to confirm that the Recommendation Prohibition is consistent with the guidance provided in the Companion Policy. CIRO should state that the Recommendation Prohibition means that OEO dealers are permitted to provide advice to a client that is not tailored to the needs and circumstances of the client, and clients must be responsible for all investment decisions in the OEO account.

Use of the Term "Investment Products"

We note that Proposed Guidance references "investment products" in multiple places, but this term is not defined in the Proposed Guidance nor in the IDPC Rules. We acknowledge that CIRO has introduced the term "investment products" as part of the Rules Consolidation Project, however, this term has not yet been codified. CIRO also did not update the definition of an OEO account as part of the Rules Consolidation Project to use the term "investment product" rather than the term "security" and "derivative". Therefore, until the definition of OEO account is amended, the Proposed Guidance should use the terms "security" and "derivative" instead of "investment product" to remain consistent with the existing IDPC Rules. Using a new term like "investment product" before it is incorporated into the definition of OEO account risks creating additional confusion for dealers.

Responses to CIRO's Questions

Our responses to CIRO's specific questions regarding the Proposed Guidance are set out below. For convenience, we have included the questions in italics.

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.

If CIRO adopts a principles based approach to the interpretation of recommendation that is consistent with the Companion Policy, much of the discussion safeguards can be simplified. Rather than providing an exhaustive list of safeguards for each type of decision-making support, CIRO should encourage dealers to apply their business judgment to ensure that any decision-making support is only providing non-tailored advice to clients, and that dealers provide appropriate disclosure to help clients understand the purpose and limitations of the tool.

For example, with respect to filtering tools, the Proposed Guidance says that a safeguard is to provide customization options, including enabling clients to select which criteria they want to use and how many investment products they wish to see ranked. That level of customization in filtering tools can be very challenging to build from a technological perspective. Overly specific descriptions of safeguards, including safeguards that are difficult to build and implement, may create an unintentional chilling effect on dealers' ability and willingness to develop new tools.

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.

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

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 are supportive of the guidance in the Proposed Guidance regarding model portfolios, with one area for clarification. We agree with the statement in the Proposed Guidance that sample portfolios must not in their net effect be similar to the managed service that is provided in the model portfolios offered by full-service dealers and portfolio managers. However, we believe that the following statement needs to be clarified: "an example of this would be if an OEO Dealer regularly updates the asset allocations, securities selections or other components of a sample portfolio and then informs clients so that the clients can mirror those changes." The Proposed Guidance goes on to note that OEO Dealers must "regularly review, test and update each of the sample portfolios to maintain their relevance and accuracy."

We believe that there will be circumstances where it will be appropriate for an OEO Dealer to update its model portfolios and to advise clients of the changes, and the Proposed Guidance should be revised to clarify that this is permitted. For example, new ETFs may be listed or the fees associated with existing ETFs may change. These changes would potentially impact the filtering and selection of ETFs made by the client when the client initially used the model portfolio tool. It is appropriate for a dealer to advise clients of changes of this nature to its model portfolios. We believe the key safeguard for changes dealers make to model portfolio tools is that the client has to proactively confirm that they would like the dealer to execute the applicable trades in the account to mirror the changes the dealer made to the model portfolio.

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 are supportive of the technology neutral approach adopted in the Proposed Guidance. For example, while the Proposed Guidance does not specifically refer to tools that incorporate artificial intelligence, we believe that the Proposed Guidance can provide helpful principles to analyze these tools from a regulatory perspective. Rather than aiming to provide an exhaustive list, we believe that CIRO should encourage dealers to apply the principles set out in the Proposed Guidance to determine if a tool complies with the Recommendation Prohibition. Further, CIRO staff should be willing to defer to a firm's judgment and analysis in this regard. The creativity of firms and technological innovation will dramatically outpace the regulatory guidance making process. Therefore, CIRO should encourage dealers to analyze tools for themselves using the principles articulated in the Proposed Guidance rather than attempt to create definitive analyses of all tools that dealers may develop.

We acknowledge that CIRO is overseeing an industry in a period of rapid change. The profile of an average retail investor is changing, how they invest is changing and the importance of their investments to their financial security is only increasing due to factors like the cost of housing, longer life expectancies and lower rates of pension coverage. None of these changes are simple, nor are these conditions static. Wealthsimple applauds CIRO's effort to pursue reforms that prioritize the best interests of Canadian investors and the public's confidence in the capital markets.

We hope that our comments will be considered positively by CIRO and helpful in revising the Proposed Guidance. We welcome the opportunity to discuss our comments with you.

Yours very truly,

"Blair Wiley"

Blair Wiley
President & Director
Wealthsimple Investments Inc.