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**Request for Comment – Proposed amendments to CIRO By-law 1 regarding Term limits of Independent Directors and the Chair**

[Request for Comment – Proposed Amendments to CIRO By-Law No. 1 Regarding Term Limits of Independent Directors and the Chair – Canadian Investment Regulatory Organization \(CIRO\) | OSC](#)

**Introduction**

We are disappointed in the Board's decision to limit comments to 30 days for such an important issue that can impact millions of Canadians. CIRO is a critical Public interest entity. The voice of many potential contributors will not be heard.

The stated purpose of the Proposed Amendments is to align with governance best practices and ensure leadership continuity. The net effect is to increase term limits for independent Directors. Kenmar welcomes the opportunity to provide feedback.

Kenmar Associates is an Ontario-based privately-funded organization focused on investor education via articles hosted at [www.canadianfundwatch.com](http://www.canadianfundwatch.com) Kenmar also publishes the Fund OBSERVER on a monthly basis discussing consumer protection issues primarily for retail investors. Kenmar is actively engaged with regulatory affairs. An affiliate, Kenmar Portfolio Analytics, assists, on a no-charge basis, abused consumers and/or their counsel in filing investor complaints and restitution claims.

We have found no evidence-based justification for the proposed term limit changes and no evidence the proposed term limit changes represent SRO best practices.

**Commentary**

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An SRO (non-profit) focussed on securities regulation is uniquely different than a statutory regulator. CIRO is accountable to its dues-paying Members, statutory regulators and investors. CIRO is constrained, via Recognition Orders, on the actions it can take. Any rules it makes are subject to CSA approval. Any material change to its rules and practices are subject to public consultation and ultimately subject to CSA approval. In addition, CIRO activities are overseen by the CSA who issue an annual report on CIRO operations and governance. [CIRO "independent" Directors may include ex-industry participants that have passed the 3 year cooling-off test]. According to CIRO's 2025 Annual report, independent Directors were paid between \$106,000 and \$187,000 depending on committee involvement. Mr. T. Hodgson served as CIRO's inaugural Chair from January 1, 2023 and departed the Board March 25, 2025.

In a self-regulation context, the concern is whether extended term limits-- specifically a decade for Independent Directors and up to 12 years for the Chair-- can impair both actual and perceived independence through familiarity, Group think, resulting in Board stagnation/complacency. These risks can reduce Director independence and impair investor protection.

As an SRO operating under Provincial Recognition Orders, CIRO has an elevated duty to ensure its Board is beyond reproach. A twelve-year tenure spanning over a decade (12 years) for an independent Chair generates serious questions concerning the robustness of independence and governance.

CIRO must not only be well governed but most importantly must also appear to the public to be well governed. To the extent the public and potential investors have confidence in CIRO regulation, it is to that extent capital markets will be attractive, competitive, and fair. The perception of Director entrenchment is a concern especially for a financial services industry self-regulator. Kenmar have not been presented with any evidence-based rationale for increasing Director term limits, but there is a solid rationale for periodically altering Board membership as new issues and challenges develop.

The most relevant benchmark for CIRO would be the Financial Industry Regulatory Authority (FINRA), which serves as the self-regulatory organization for the U.S. investment industry which sets a maximum tenure of six years for all Directors. FINRA is a mature, established SRO compared to CIRO which came into being January 1, 2023. FINRA has not experienced a continuity issue since incorporation. According to the UK Corporate Governance Code, the recommended tenure limit for the Chair is 9 years. There is no recommended tenure for non-executive directors – but after 9 years they are no longer considered independent. Research indicates that Firms with a high proportion of directors with extended tenure are associated with lower innovation, productivity and quality.

As an aside, on February 1, 2026, the Philippines SEC implemented a strict maximum cumulative term limit of nine (9) years for independent directors of

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publicly listed companies to enhance independence, removing previous allowances for extensions.

We are particularly concerned by the planned move toward a twelve-year maximum tenure for the Chair, which the CIRO consultation justifies as an alignment with "governance best practices" and a need for "continuity". In our view, this is an unnecessary and inappropriate time escalation that materially risks substituting administrative efficiency for independence. Despite extensive research, we were unable to confirm that a 12-year term is a SRO governance best practice. Longer term limits are akin to leaving the door open for influence pedaling from those who appointed and support the Director.

Shorter term limits can bring fresh ideas and perspectives to the Board more frequently, which can be vital for innovation and adapting to changing environments which will change even faster with AI. Shorter term limits avoid the perpetual concentration of power within a small group of people and the intimidation of new members by this dominant group. Shorter terms provide the necessary flexibility to address non-performance and adjust Board membership to reflect the organization's changing needs. Additionally, knowing that their term is limited can encourage Directors to stay more engaged and proactive, maximizing their contribution during their tenure. There should be new faces around the table, new conversations being had and questions being asked. That is what healthy independent Boards do: they evolve.

The financial services world is rapidly changing with changes in investor expectations, regulation, new products, technology and the rise of AI. A SRO Board needs to be flexible and nimble to address change. There is thus a strong case for Director rotation rather than entrenchment. As a SRO acting in the public interest, there is a special need to demonstrate strong governance. If CIRO is granted an increased OSC/CSA mandate, CSA oversight will need to be enhanced.

Some questions for the Board and CSA:

1. Is there objective evidence that the existing term limits inhibit continuity?
2. Is the evidence for claiming the proposals represent *best practices* for an SRO?
3. Will Director entrenchment impact Board performance?
4. Should CSA oversight be increased?
5. Does the CIRO IAP support this proposal?
6. Could approval of this proposal lead to extended term limits in the corporate world, exchanges and the OBSI?

The essence of having independent directors is that their ability to exercise independent judgement over a enterprise's affairs, making them an effective tool for promoting good corporate governance, transparency, and accountability. A shorter term limit ensures that independent Directors maintain the objectivity and impartiality required to serve the very purpose envisioned under the law.

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To ensure diversity and continuity, many organizations use staggered terms to maintain a balance of new perspectives and experienced continuity. An annual Board self-assessment will assist in identifying gaps to be filled –it should be made available to CSA Oversight and all interested parties. The Board should have a well-conceived succession plan in place to ensure continuity instead of extending term limits to controversial heights. The Board’s skills matrix can be used to track existing expertise, demographics, guide recruitment priorities, and to ensure there is planning to backstop critical skill sets. These well-established processes work well towards establishing continuity without the need to increase term limits.

### **Conclusion**

The governance challenge is not limited to the existence of term limits- it is how they are designed, implemented, and supported across the governance spectrum with other processes. In our response we have responded to the narrowly defined consultation. Nevertheless, we feel that with robust Director performance self-assessments, needs analysis, skills matrices and other governance tools, the CIRO proposed term limits are unnecessary and are certainly not proven SRO best practices.

While long-tenured directors bring experience, excessive tenure often leads to entrenchment, where directors become too closely aligned with management and resistant to necessary changes.

A potential twelve-year Chair tenure is not merely a modest adjustment; it concentrates agenda-setting influence and information-flow control in a single individual for over a decade. Even if one accepted a case for additional flexibility for Independent Director tenure generally, a self-regulator Chair provision is a distinct governance escalation and should be justified on more than the proposition that a Director appointed Chair late in their tenure should be able to complete a preferred term length.

We find that any potential benefit of increasing term limits is not balanced by the demonstrable benefits and lowered risks of maintaining existing term limits.

Governance risk can lead to increased regulatory risk, social risk, reputational risk and operational risk. In the end, it is Main Street investors that will pay the price of inferior CIRO governance.

We recommend the proposed amendments be abandoned (NOT be presented at the September 23, 2026 Annual General Meeting ) and the CIRO Board laser focus on governance, regulatory results, investor outcomes, information security and delivering on the benefits for which CIRO was formed.

Please feel free to contact us if there are any questions regarding this submission.

We would welcome a meeting to discuss this consultation.

## Kenmar Associates

K. Kivenko, President  
Kenmar Associates

### REFERENCES

**CIRO's breach is a data-governance failure – not an IT glitch | IE**  
<https://www.investmentexecutive.com/uncategorized/ciros-breach-is-a-data-governance-failure-not-an-it-glitch/>

**Do Directors have a *use by date*? Examining the impact of Board tenure on Firm performance**

This 2019 US study analysed a sample of more than 3,000 companies over an 18-year period finding that board tenure is positively related to forward-looking measures of market value, but that positive relationship tended to reverse after about 9 years on average, when a director 'might become stale and less relevant to the needs of the firm. This is not a new finding, with earlier research showing that extended tenure is linked to a resistance to change and cognitive entrenchment, which describes what psychologists observe when people gain deeper expertise in an area but also become less flexible in their thinking.

<https://articlegateway.com/index.php/AJM/article/view/2073/1970>

**CIRO needs to stop saying 'should' | Investment Executive**  
<https://www.investmentexecutive.com/uncategorized/ciro-needs-to-stop-saying-should/>

**CSA Multilateral Staff Notice 81-337 Targeted Continuous Disclosure Review and Guidance for Independent Review Committees for Investment Funds | CSA**

CSA Staff stressed the principle of ongoing turnover in IRC membership to maintain independence from the IFM. The takeaway is that IRC terms beyond six years should be the exception, not the rule.

<https://www.osc.ca/en/securities-law/instruments-rules-policies/8/81-337/csa-multilateral-staff-notice-81-337-targeted-continuous-disclosure-review-and-guidance>. The CSA should apply this principle in its decision on CIRO's proposal to increase Independent Directors term limits well beyond 6 years.