Rule amendments relating to the proposed adoption of an Incorporated Approved Person compensation option

November 6, 2026

Delivered to: Canadian Investment Regulatory Organization **(CIRO)**

Introduction

The Canadian Bankers Association (**CBA**)[1] appreciates the opportunity to comment on CIRO's *Rule amendments relating to the proposed adoption of an Incorporated Approved Person compensation option* (**Proposal**).

The CBA endorses the recommendations and positions set out in the Securities and Investment Management Association (**SIMA**) submission on the Proposal dated November 6, 2026, subject to the comments and recommendations contained in this letter.

Tax Considerations

We appreciate that CIRO engaged with staff of the Canada Revenue Agency (**CRA**) during the development of the Proposal. As noted in the Proposal, CRA staff provided links to relevant cases and other materials which CIRO considered in developing the Proposal. We also recognize that a significant driver for the Proposal is the anticipated tax efficiencies for advisors.

The key tax issue in the Proposal is ensuring that the relationship between a Dealer Member and an Approved Person who adopts the incorporated advisor model is an independent-contractor relationship rather than an employer-employee relationship. If an Approved Person is considered an employee of the Dealer Member, the Approved Person's corporation will likely be considered a "personal services business" under the *Income Tax Act* (Canada), which would substantially limit the tax benefits associated with incorporation and would undermine the goal of tax certainty.

To help address the independent contractor versus employee question in other professions, the CRA has published materials setting out what it looks at when determining the employment status of a particular profession. In particular, the CRA has published this information for real estate agents and for truck drivers.[2] These publications list (i) facts that would be considered neutral – *i.e.*, facts that are not determinative and can support either conclusion, (ii) facts that indicate independent contractor status, and (iii) facts that indicate employee status. The facts include the specific elements that are unique to each profession and provide a clear roadmap for how to structure contracts to achieve either an independent contractor relationship or an employee relationship.

A similar CRA publication for the investment advisor profession would be valuable as it would provide a window into how the CRA views certain facts in determining an investment advisor's employment status. This would reduce tax risk for all parties and would help achieve the Proposal's goal of tax certainty. Has CIRO asked the CRA to produce this type of document? If not, we suggest that CIRO work with the CRA to do so.

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[1] The Canadian Bankers Association is the voice of more than 60 domestic and foreign banks that help drive Canada's economic growth and prosperity. The CBA advocates for public policies that contribute to a sound, thriving banking system to ensure Canadians can succeed in their financial goals.

[2] See Real estate agents - Canada.ca and Truck drivers - Canada.ca

If the Proposal proceeds as currently set out, there are several key facts that could create tax risk unless the CRA agrees that these facts would be considered neutral when determining employment status. It would benefit all parties if CIRO can secure confirmation from the CRA that the following facts would be considered neutral:

1. All regulatory requirements applicable to the Approved Person and the Dealer Member
2. The Approved Person contracting with only one Dealer Member
3. The Approved Person was historically an employee of the Dealer Member but has since terminated the employment contract and has caused a corporation to enter into a services contract with the same Dealer Member to provide investment advisor services

In our view, tax certainty is a threshold issue. Before firms undertake the significant legal, operational, governance, technology and human resources changes required to implement advisor incorporation, it is important to understand whether the Proposal is capable of delivering the tax outcomes that make incorporation attractive in the first place.

Accordingly, it would benefit all parties if CIRO works with the CRA to obtain guidance on how the CRA will view the relevant facts when determining the employment status of an Approved Person, in the same way the CRA has published this information for the employment status of real estate agents and for truck drivers.

The practical utility and adoption of the Proposal will depend in large part on whether incorporated Approved Persons can obtain the tax treatment that makes incorporation attractive. If the Proposal does not meaningfully address the key tax uncertainties associated with incorporation, the anticipated benefits of the Proposal may not be realized notwithstanding the significant investments that firms would be required to make to implement it.

Implementation Timeline

The Proposal would represent a significant structural change for many investment dealers and mutual fund dealers. The operational, legal, employment, compensation, tax, supervisory, governance and technology changes required to implement the Proposal will vary considerably depending on a firm's existing business model.

A sufficient transition period is therefore necessary to ensure that all firms, regardless of their existing business model, have adequate time to implement the operational, legal and structural changes required to support advisor incorporation. This is particularly important for firms operating under an employer-employee model, which may face significantly more extensive implementation requirements than firms operating under a principal-agent model.

Moreover, many dealers form part of large integrated financial institutions that rely on shared enterprise-wide human resources, payroll, compensation, benefits, tax and technology infrastructure. For these firms, implementation would require extensive planning, coordination and modifications across multiple business functions and systems.

Providing all firms with adequate time to prepare would help maintain a level playing field across the industry (consistent with the Proposal's goals), support an orderly implementation process and reduce the risk of competitive distortions arising from differences in firms' existing operating models. It would also allow firms sufficient time to establish appropriate governance, risk management and supervisory controls before implementation. A common industry implementation date following a sufficient transition period would further support these objectives and promote a more consistent client experience.

Accordingly, we recommend that CIRO establish a transition period of at least 24 months following publication of the final rules and completion of any required regulatory or legislative changes. This minimum period should apply across the industry, meaning that no Dealer Member would be permitted to implement the framework before the expiry of the 24-month transition period, thereby supporting a level playing field.

National Harmonization

In our view, achieving a nationally harmonized outcome is an essential precondition to implementation of any incorporated advisor framework. This would also advance CIRO's stated objective of establishing a harmonized approach to client-facing Approved Person compensation.

We recognize that implementation of the Proposal will require amendments to securities legislation and/or rules and that the Canadian Securities Administrators (**CSA**) are currently considering the appropriate approach, which may involve amendments to National Instrument 31-103, securities legislation or other regulatory measures.

Regardless of the implementation mechanism ultimately chosen, firms and advisors should not be subject to differing regulatory requirements, approval processes or implementation timelines across jurisdictions.

Absent a coordinated national approach, firms and advisors may face increased operational complexity, additional costs and an uneven competitive landscape. We therefore encourage CIRO and the CSA to coordinate any necessary legislative, regulatory or exemptive relief measures to achieve a consistent national outcome with the same implementation date and maintain a level playing field for firms and advisors.

Conclusion

The CBA appreciates the opportunity to comment on the Proposal and encourages CIRO to ensure that any framework is implemented on a nationally harmonized basis, supported by an appropriate implementation period and accompanied by greater clarity regarding the tax implications of advisor incorporation. We would be pleased to discuss these comments further with CIRO.