

March 25, 2024

Via Email

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Re: Canadian Investment Regulatory Organization Rules Bulletin and Request for Comment 24-0029 - Policy options for leveling the advisor compensation playing field

We are pleased to provide comments in response to the Canadian Investment Regulatory Organization (“CIRO”) Rules Bulletin 24-0029 – *Policy Options for leveling the advisor compensation playing field* and the related CIRO position paper referenced therein (collectively, “24-0029” or “position paper”), published for comment on January 25, 2024.

This letter is submitted by CI Financial Corp. on behalf of its Canadian wealth management subsidiaries registered as CIRO dealer members: Assante Capital Management Ltd, a dual registered investment and mutual fund dealer; Assante Financial Management Ltd., a mutual fund dealer; Aligned Capital Partners Inc., an investment dealer; and CI Investment Services Inc., an investment dealer offering custodial services and an order-execution only discount brokerage. We will refer to these firms collectively as “CI Wealth”, their soon-to-be parent company and a wholly-owned subsidiary of CI Financial Corp., which represents approximately 1,400 individual registrants in 590 locations across Canada, offering a range of products and services to support Canadians’ wealth management needs.

CI Wealth appreciates the opportunity to comment on this important and timely initiative, previously referred to as “Harmonizing Directed Commissions”, a specific issue necessary to support the New SRO as contemplated in the CSA Position Paper 25-404 – *New Self-Regulatory Organization Framework* dated August 3, 2021 (“25-404”). The issue itself is not new given the differing regulatory paradigm that emerged between the Investment Industry Regulatory Organization of Canada (“IIROC”) and the Mutual Fund Dealers Association of Canada (“MFDA”), resulting in an uneven playing field for registrants across the CI Wealth firms.

In response to the call for comments on the position paper, CI Wealth believes that it is necessary to first summarize the existing structuring opportunities available to CIRO registrants, and will follow with its recommended approach, noting important factors for CIRO’s consideration. For the purposes of this response, CIRO registrants and CIRO Approved Persons include those individuals previously registered with either IIROC or the MFDA.

Background and Current Structuring Opportunities for CIRO Registrants

Historically, and as noted in 24-0029, mutual fund dealer registrants (“MFD registrants”) have enjoyed the ability to take advantage of the ability to “*direct commissions*” earned to a personal unregistered corporation as permitted under applicable former MFDA rules.

In the simplest of terms, MFDA Rule 2.4.1 provided and continues to provide MFD registrants the ability to request their sponsoring mutual fund dealer member (“MFD Member”) pay applicable commissions directly to an unregistered corporation, a concept colloquially known as “*income redirect*”, or alternatively as “*directed commissions*.” The purpose of this arrangement is for the MFD registrant to create or harness tax efficiencies of having income earned within a corporation. This corporation may also carry on non-securities related business such as insurance sales, financial planning, income tax preparation, and other activities that do not require registration under securities regulation – such as the MFD registrant’s administrative activities. Mutual Fund Dealer Rule 2.4.1(b) outlines the conditions for this arrangement, which include, in summary, the continued application of applicable laws, regulations and rules pertaining to securities legislation regardless of the payment of commissions and remuneration; continued supervision by the MFD Member of the MFD registrant and the MFD registrant’s personal corporation; and to provide continued access to the MFD Member and applicable securities commission to all documentation and books and records of the personal corporation to ensure compliance with rules and securities regulations. These conditions are also outlined in Schedule “A” to MFDA Staff Notice 0072 – *Payment of Commissions to Unregistered Corporation*, which forms a tri-party agreement between the MFD Member, the MFD registrant, and the unregistered corporation; and further acts as a direction to pay (direct) the commissions earned by the MFD registrant to their personal corporation.

Currently and historically, incorporated salespersons are not permitted for any dealers (investment or mutual fund) under securities regulations and CIRO Interim Rules (including historical IIROC and MFDA rules). As noted in IIROC White Paper 15-0260, *The Public Policy Implications of Changes to Rules Regarding Proficiency Upgrade Requirements and Directed Commissions on the IIROC Platform*:

Directed commission is distinct from the idea of an *incorporated salesperson*, which is the ability of an individual to carry on registrable activities (e.g., trading or advising activities) through a corporation that is itself registered under securities legislation.

More importantly, there is no equivalent former IIROC rule or current CIRO Investment Dealer Partially Consolidated rule (“IDPC rule”) for Investment Dealer individual registrants (“ID registrants”) that permits directed commissions. Therefore, current ID registrants and former IIROC registrants have never had access to this opportunity. These registrants can only provide registrable services within either an employer-employee relationship or through a principal-agent relationship, in both instances with their registration being sponsored by their dealer member. In either case, IDPC Rule 3505 (as did its IIROC predecessor) prohibits the Investment Dealer Member from paying any commissions or fees earned to any person other than a Registered Representative, Investment Representative, Portfolio Manager, or Associate Portfolio Manager of the Investment Dealer Member.

CI Wealth’s Recommended Approach

The position paper discusses compensation approaches that could be made available for use by all CIRO Approved Persons and requests commenters to discuss which rulemaking options they prefer that CIRO pursues and why.

Taking into consideration that CI Wealth represents both ID and MFD registrants, we propose that the following compensation approach be made available for use by all CIRO Approved Persons in order to level the playing field: immediate adoption of an enhanced directed commission arrangement while pursuing the implementation of an Incorporated Approved Person registration category for registerable activities once harmonized across all provincial jurisdictions.

Given the significant impact to MFD registrants who have been using direct commission arrangements for over 20 years, the transition to an Incorporated Approved Person registration will be a significant impact to the ongoing business. We

are therefore recommending the immediate harmonization to adopt the side that has least impact with the goal to work towards the Incorporated Approved Person category which will ultimately reduce oversight and investor protection concerns.

This approach, which places investor or client protection at the forefront while also recognizing the importance of choice of structuring among CIRO registrants, also affords recognition to all registrants of the important role they play in supporting Canadians through the provision of ongoing wealth and financial planning advice.

Considerations

Enhanced Directed Commission Approach

For greater certainty, this is effectively a directed commission approach which has been presently in place and available to MFD registrants with added controls and supervision over the structure of the payee-corporation as well as ongoing supervision.

CI Wealth’s interpretation is that the current ability to direct commissions to a personal corporation as permissible will remain as is for MFD registrants and will be extended to ID registrants. This will support a consistent approach under a single regulator by making available the same rule across all CIRO registration categories under the principal-agency model. This will also reduce limitations to MFD registrants wishing to upgrade their proficiencies and become registered with an ID member.

Registrable versus non-registrable activities

In the position paper, the concept of “activities” is broken down into two categories: registrable activities and non-registrable activities and, broadly speaking, refers to activities carried out within a personal corporation “on the sponsoring dealer member’s behalf.” This distinction in CI Wealth’s opinion requires clarification as it is not clear which types of non-registrable activities may be carried out by a registrant’s personal corporation on behalf of the dealer member. The rule amendments should therefore define which activities and commission earnings may be directed to the CIRO registrant’s personal corporation.

Application of rule amendments and timelines

The release of the rule amendments should clearly state if the changes will apply to both MFD and IDPC rules until the final consolidated CIRO Rule Book is published, including clarification on timelines if they are different for MFD registrants with a dual registered firm versus an MFD registrant with an MFD Member.

CI Wealth is very appreciative for the opportunity to share its insights and opinions on this important policy initiative for CIRO registrants to assist with CIRO’s analysis.

Yours sincerely,



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