

# CIRO Consultation: Rule Consolidation Project – Phase 5

June 25, 2025



Submission to the Canadian  
Investment Regulatory  
Organization (**CIRO**)

The Canadian Bankers Association (CBA)<sup>1</sup> appreciates the opportunity to provide input on CIRO's *Rule Consolidation Project – Phase 5 (Phase 5)*.

## Consultation Questions

- 1. The proposed definition of “complaint” includes current and former clients. Should “prospective clients” also be included, as they are in the current MFD Rules? Do “prospective clients” generate a significant number of substantive complaints that present a material regulatory concern, rather than just service issue?**

### Prospective Clients

We do not believe "prospective clients" should be included in the definition of “complaint”.

Complaints involving prospective clients generally involve no risk of financial harm since there is no account opened with the Dealer Member. Moreover, in our members' experience, prospective clients rarely make complaints. In the infrequent instances they occur, the concerns are primarily service issues.

This reality is recognized in comparable complaints regimes, such as in the Autorité des marchés financiers (AMF) complaint rules (to take effect July 1, 2025) which specify that the reproach, or dissatisfaction is communicated by a person who is a “member of the clientele”<sup>2</sup>.

It is unclear that any unique issue has been identified to justify expanding application of the complaints regulatory process beyond the generally recognized appropriate boundary of application to clients or former clients.

Notably, the structure of the current Investment Dealer and Partially Consolidated (IDPC) complaints rule is appropriately geared to address client or former client complaints given the duty of care owed, and otherwise effectively manages, through the firm's internal investigation process, serious misconduct of an Approved Person that may even be unrelated to a client but inappropriate for an Approved Person to engage in. The Dealer Member must report the results of such investigation to CIRO.

If the complaint handling process were to be applied to prospective clients, as if a contractual relationship with the Dealer Member was created, it would result in additional administrative

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<sup>1</sup> 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.

<sup>2</sup> [Regulation respecting complaint processing and dispute resolution in the financial sector](#) s.3.

obligations on the Dealer Member that includes, but is not limited to, preparing and sending out an acknowledgement letter, and a substantive response although in many cases, the Dealer Member may not have the personal information of the prospective client making it difficult to issue written responses and report these non-client complaints to CIRO.

It is recommended that consistency in the scope of the definition of complaint be applied for CIRO Dealer Members by limiting the invocation of the formal regulatory complaints process to client complaints as do the IDPC and AMF complaints rules. Prospective clients are not in a contractual relationship with the Dealer Member and as such, are outside the scope of the CIRO regulatory complaints rules which should align with the aim of investor protection.

### **Former Clients**

We suggest that the timeframe to determine a “former client” should be aligned with the timeframe under applicable record retention requirements. Without the introduction of a limitation period of when a former client can raise a complaint to the Dealer Member, there will be an unrealistic expectation on the Dealer Member to attempt to find records even though it is outside of the record retention period and may be difficult to conduct a review. In addition, this creates an unrealistic expectation by former clients who may not understand a firm's record retention policy and expect the firm to have all the records to complete the complaint review.

### **Verbal Complaints**

With respect to the proposed requirement for Dealer Members to provide a written response to any verbal retail client complaint alleging serious misconduct, we note that under the existing IDPC Rules, a written response is only required where a preliminary investigation indicates the complaint may have merit.<sup>3</sup>

We are concerned that removing the stipulation regarding the preliminary investigation would substantially increase the administrative burden required for complaints that may be baseless. Broadening the requirement for firms to provide written responses to complaints regardless of merit will become onerous on the Dealer Member without resulting in any corresponding benefit from an investor protection perspective.

Similarly, as drafted, Proposed DC Rule 3749(2) seems to contemplate that ss. 3755-3759 apply to written complaints but do not apply to verbal complaints, potentially setting up a process where complaints alleging similar conduct would be handled differently depending on the form in which they were made.

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<sup>3</sup> Rule 3721(1)(i).

We request that CIRO clarify the draft rule so that complaints are handled efficiently and appropriately based on the substance of the allegations made by the client.

## **Employees**

We do not support the inclusion of employees as potential subjects of a complaint within the definition of “complaint”, for the reasons specified in our response to Question 2 below regarding reporting of serious misconduct by employees (i.e., non-approved persons).

## **Communication of Internal Dispute Resolution Service**

Proposed DC Rule 3759(3) introduces communication obligations, including an indication that:

- i) a client has 180 days after receiving the Dealer Member’s substantive response letter referred to in section 3756 to submit their complaint to the approved ombudsman service, and
- ii) the services of the approved ombudsman service are provided free of charge.

Proposed DC Rule 3756 refers to both the substantive response letter Dealer Members must send within 90 days of complaint receipt (3756(4)) and the internal dispute resolution service “final decision” letter to be sent no more than 120 days following complaint receipt (3756(5)).

The Ombudsman for Banking Services and Investment (**OBSI**) states that clients have 180 days to bring a complaint “once [they] have received [their] final response in writing.”<sup>4</sup> In light of the above proposed rules, it would be helpful if CIRO clarified whether the OBSI’s 180 days limitation period commences when the initial substantive response is issued or when the “final decision” letter is sent by the internal dispute resolution service.

## **2. Does the proposed definition of “serious misconduct” cover the appropriate elements that should be reported, investigated, and dealt with in respect of complaints?**

**Note that the proposed definition does not specifically include harm to the Dealer. Should it encompass conduct that harms the Dealer, even where that harm does not pose a reasonable risk of material harm to clients or the capital markets, nor result in material non-compliance with applicable laws?**

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<sup>4</sup> [FAQs | OBSI](#) “When can I bring my complaint to OBSI?”

## **Definition of “Serious Misconduct”**

### *a) Harm to the Dealer*

We do not support expanding the proposed definition to specifically include harm to the Dealer Member. We question what type of “serious misconduct” would pose significant harm to the Dealer Member but not to clients or the capital markets, and would nonetheless be within CIRO’s mandate of investor protection? If such harm does not pose a reasonable risk of material harm to clients or the capital markets, nor result in material non-compliance with applicable laws, it can be appropriately addressed by the Dealer Member through alternative avenues, such as employment law or civil proceedings.

### *b) Catch-All Provision*

We feel that the catch-all provision of the proposed definition, "any other instance of material non-compliance with CIRO requirements, securities laws or any applicable laws" is too broad and may result in inadvertent over-reporting to CIRO. Facts and circumstances, including the nature and size of Dealer Members, will influence what is considered "material". In addition, the catch-all provision brings in-scope any non-securities laws, which a Dealer Member would already be subject to with specific reporting requirements under the applicable regulatory framework.

To avoid creating ambiguity for Dealer Members and over-reporting of non-material non-compliance matters to CIRO, it is recommended that CIRO remove this catch-all provision.

### *c) Lack of Exercise of Dealer Member Professional Judgment*

Dealer Members should be able to exercise their professional judgment to determine on a case-by-case basis whether alleged activity creates a reasonable risk of material harm to a client, former client or the capital markets, taking into consideration the relevant facts and circumstances and any aggravating and mitigating considerations. We are concerned that the prescriptive list of activities that would be deemed to be "serious misconduct" under the proposed definition leaves no room for this necessary assessment. Recognizing that there are always aggravating and mitigating considerations relating to any allegation of misconduct, it would be more appropriate to wait until after an investigation is concluded before determining whether any alleged activity is "serious misconduct". For example, a breach of client confidentiality could involve inadvertently sending an email to the wrong client with an attachment containing some confidential or identifiable personal information, or it could involve significant inappropriate sharing or breach of client confidentiality. Not any and all breaches of client confidentiality should warrant characterization as "serious misconduct". Similarly, not all outside activities contrary to section 2554 should constitute "serious misconduct". It may be more appropriate to replace the term “serious misconduct” with

“misconduct” so that it is recognized a breach has occurred but have the Dealer Member fairly assess its severity in the context of the breach and the degree of risk of material harm to a client or the capital markets, upon investigation.

*d) Timing of Reporting*

A requirement to report investigations, including compliance reviews, when a Dealer Member “becomes aware” of serious misconduct will result in over-reporting on matters that either do not have merit and/or were ultimately determined to not have met the threshold of “serious misconduct”. Further, in our members’ experience, whenever an internal investigation is reported to CIRO, CIRO almost immediately approaches the Dealer Member requesting information that is not yet available as the matter has just come to light, the investigation has just initiated, and not necessarily been found to have merit. This is extremely burdensome on Dealer Members and their resources, as they are having to manage CIRO requests for information when an investigation is simply reported but not yet complete.

We suggest that CIRO amend the rules to only require the reporting of an internal investigation or compliance review once the investigation has been completed, and it has been determined that serious misconduct has occurred or may have occurred.

We note that under Proposed DC Rule 3711(2) if a Dealer Member becomes aware of a complaint alleging serious misconduct, that complaint must be reported to CIRO within 20 business days; however, Proposed DC Rule 3720(1)(iv) suggests that the firm would be required to initiate an internal investigation of this complaint that must be reported to CIRO within 5 business days. These reporting timelines are divergent and have the potential to result in confusion and duplication of reporting.

*e) Client Confidentiality*

It would be helpful if CIRO provided guidance on the term “breach of client confidentiality” relative to a privacy breach and whether it would be possible to have a breach of client confidentiality which is reportable to CIRO, that would not also be considered a privacy breach reportable to the relevant privacy regulator.

**Reporting Serious Misconduct by Non-Approved Persons**

Proposed DC Rules 3710 and 3711 extend reporting requirements, which previously applied only to Approved Persons, to now apply to employees of the Dealer Member (i.e., **non-approved persons**). The benefit of this added requirement in terms of furthering investor protection and the fairness and efficiency of the capital markets is unclear. This is because non-approved persons

would not be providing registerable activities. Moreover, the overwhelming majority of non-approved persons are not client facing.

In addition, CIRO does not have direct jurisdiction over the conduct of non-approved persons, and it is not clear how CIRO would address such conduct as it would not have the ability to sanction/discipline these individuals directly. If CIRO's primary concern is being aware of instances where non-registered individuals were performing activities requiring registration, the Dealer Member will investigate and discipline such individuals accordingly per the firm's policy to address the misconduct. Further, Dealer Members have a system of controls where the identification of root causes resulting in an employee misconduct is identified, investigated, and remediated to deter future misconduct.

Extending these requirements to non-approved persons will also have significant operational implications for Dealer Members. It will require the allocation of significant time and resources to ensure that non-approved persons comply with reporting obligations, including the review and revision of employment contracts to comply with the rule, and meet Dealer Member reporting obligations to CIRO.

Further, in our view, it is not reasonable to impose the same standard of conduct on non-approved persons as Approved Persons. Approved Persons go through additional training and/or have qualifications before becoming registered as such. Approved Persons understand their obligations as professionals in the industry, and it is reasonable for Approved Persons to be held to a higher standard of conduct as set by the rules. Non-approved persons may not necessarily have the same qualifications or training (nor is it reasonable to expect them to go through the same training for their role), and CIRO cannot expect non-approved persons to be held to this higher standard of conduct without clear justification to support this determination.

Unlike Approved Persons who must first apply for registration with CIRO and have a profile on the National Registration Database (**NRD**), there is no such reporting mechanism or profile for non-approved persons on CIRO's database. Further, Approved Persons are trained and educated to understand their reporting requirements such that they can notify their immediate supervisor in the first instance should their NRD profile require updating. The same cannot be said about non-approved persons. For larger Dealer Member firms, requiring non-approved persons to follow a similar reporting requirement may necessitate the training/education of thousands of additional individuals, implementation of a mechanism to facilitate reporting, and allocation of additional time and resources where the benefit to clients and the investing public remains unclear.

Finally, the rationale for CIRO collecting personal information about a non-approved person's financial circumstances or professional licensing is unclear if those certifications are not relevant for the role they hold at the Dealer Member.

**3. Is the definition of “non-reportable complaints” appropriate to minimize reporting where there is no material risk of harm to clients or the capital markets, or instances of non-compliance, while still ensuring that material complaints are addressed?**

As drafted, paragraph (i) of the proposed definition would mean that all complaints involving any regulatory breach are reportable, whether material or not, and whether related to securities law or not.

We are concerned that this extends CIRO reporting and investigative requirements to matters unrelated to securities law and outside CIRO jurisdiction. This may also result in duplication and overlap for Dealer Members with respect to regulatory reporting and investigations of the same conduct by CIRO and other regulators having direct jurisdiction over that conduct.

The phrase “any applicable laws related to the Dealer Member related activities” in paragraph (i) of the proposed definition could also lead to reporting of clerical errors (for example, would complaints relating to a TFSA overcontribution be reportable?).

In addition, the use of “material” in the proposed definition of serious misconduct, and “non-material” in the proposed definition of non-reportable complaints, creates ambiguity. The standard used to assess the reasonableness of risk, materiality of harm, and materiality of non-compliance with applicable rules is a subjective one that may result in different interpretations by stakeholders.

In our view, current rules that define and exclude “service complaints” from being reportable to CIRO are much clearer than the proposed definition. For example, existing Mutual Fund Dealer and Investment Dealer rules make it clear that service complaints are related to service issues and clearly separate from issues related to securities laws or regulatory requirements. Similarly, the AMF's classification<sup>5</sup> of what is not considered a complaint is also very clear: "a request for correction of clerical error or mistake in calculation is not considered a complaint."

We recommend that CIRO adopt the existing definition of “service complaints” as expressed in Mutual Fund Dealer Rule 600, which provides clarity and would impose no additional burden on Dealer Members.

Finally, we are supportive of paragraph (ii) of the proposed definition of non-reportable complaints as it will reduce unnecessary regulatory burden.

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<sup>5</sup> In force July 1, 2025

**4. Is the 90-day time limit to provide a substantive response letter to a complainant appropriate, given that the Autorité des marchés financiers has moved to a 60-day period (with a 30-day flex period), while the other CSA members recommend a 90-day period (per Companion Policy 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations)?**

We believe that the 90-day time limit for providing a substantive response is reasonable and appropriate.

That being said, we note that Proposed DC Rule 3756(4)(iii) requires the Dealer Member to "inform the Corporation if the Dealer Member is unable to meet the 90-day timeline and ... provide reasons for the delay" for a substantive response letter. This imposes an additional reporting requirement on the Dealer Member when it exceeds the 90-day timeline to respond to a written *non-reportable complaint*. This is inconsistent with the complaint reporting requirements which exclude non-reportable complaints.

**5. Is the proposed time limit for internal dispute resolution processes reasonable, considering the need to balance an expedient resolution for clients while still allowing an appropriate amount of time for Dealers to determine an effective and fair resolution?**

We note that for many Dealer Members, the internal dispute resolution service (**IDRS**) operates independently and separately from the Dealer Member, which we believe is an important distinction and means that Dealer Members in many cases do not have direct control of the IDRS.

In cases where the IDRS received the complaint after the issuance of the substantive response letter, the proposed 30 day-timeline is too short to resolve the escalated complaint, especially for complex matters. The IDRS needs sufficient time to review all the details leading up to the substantive response and the appropriateness of the response and in some instances, additional reviews may be warranted. The need to provide a response to the client within 30 days puts additional pressure on the IDRS to "meet the deadline" rather than take the time to adequately gather, assess and arrange an appropriate response to the client. Because the client has received a substantive response from the Dealer Member, there should not be a need to provide a form of "rush" response to the client from the IDRS. What would be of benefit to the client is to ensure that this level of escalation is thorough, and any conclusions reached had the necessary time to be determined.

Where no substantive response letter has been issued, it is unrealistic to cap the timeline to 120 days from the date the Dealer Member initially received the complaint. For example, if the client escalates the complaint on the 100th day because no substantive response letter has been issued, this will leave the IDRS with only 20 days to handle the complaint.

In our view, the timeline on the IDRS should not be subject to a cap since it is independent of the Dealer Member and does not impede the client from escalating to OBSI after receiving the Dealer Member's substantive response. There is no particular benefit to assigning a timeframe to the IDRS as clients have the option to escalate to OBSI at any point.

**6. Do you agree with our assessment of the areas where the proposed harmonization is consistent with current requirements and Dealer practices and therefore no significant negative impact has been introduced for Dealers and clients as a result? If not, please explain.**

**Do you agree with our assessment of those areas where the proposed harmonization may impact some Dealers, but that the benefits of such harmonization outweigh the costs to the affected Dealer? If not, please explain.**

Regarding Proposed DC Rule 3855(1), which states that Dealer Members "must provide clients with a written confirmation of *transactions* in investment products and other property for the client's account," we are concerned that the change from "purchases and sales" to "transactions" could encompass a much wider range of activities, such as deposits, withdrawals, contributions, stock splits, name changes etc. This would be beyond what was originally intended by this requirement. The phrase "purchases and sales" should not be replaced with "transactions". Furthermore, we urge CRO to retain the current reference to Trade Confirmation to avoid imposing any additional burden on Dealer Members.

**7. Is it appropriate to extend the ability to use free credit client cash to level 3 mutual fund dealers in addition to level 4 mutual fund dealers?**

We support the principle of a level playing field across all dealer categories with respect to use of free credit client cash.

**8. Is the phased approach we propose, for mutual fund dealers to adopt the new DC Rule Rules Form 1 capital formula and the provider of capital concentration charge, an appropriate approach and transition period?**

We support the proposed 6 year phased approach.

We do not agree with the proposal to increase the frequency of the Risk Adjusted Capital (**RAC**) calculations for Level 1 to 3 Mutual Fund Dealers from monthly to twice monthly and that early warning tests be completed on the same frequency. In our view, monthly calculations are sufficient to identify potential RAC deficiencies. We would encourage CRO to not change the calculation and

reporting frequency from monthly, given the low risks represented by the business models of Level 1 to 3 dealers. Monthly calculation also aligns with the production of financial statements.

The proposal to extend the current IDPC Form 1 provider of capital concentration charge to Mutual Fund Dealers will materially impact Mutual Fund Dealers that hold a significant portion of cash at a parent bank, as this amount would now be subject to a provider of capital charge. Mutual Fund Dealers would be required to obtain collateral for any cash left on deposit at a parent bank to avoid the provider of capital concentration charge. Alternatively, they might have to invest their excess cash in securities, rather than leaving it on deposit with the parent bank. Either of these alternatives for investing excess cash would require infrastructure that some Mutual Fund Dealers may not have. This requirement is more appropriate for Investment Dealers, which, unlike Mutual Fund Dealers, have custodial arrangements in place. CIRO should therefore consider exempting Mutual Fund Dealers from this requirement. Should this proposal be adopted, Mutual Fund Dealers would need additional time (a minimum of 3 years) to implement.

**9. Should the proposed requirements for approval of mutual fund dealers' auditors as panel auditors be subject to an extended transition period beyond the general effective date for the DC Rules, and if so, what is an appropriate extended transition period?**

We do not have a comment on this question.

**10. Where we have proposed separate schedules for mutual fund dealers and investment dealers in the new DC Rules Form 1 (e.g. client trading accounts, broker trading accounts, FX margin, concentration etc.), are these separate schedules appropriate or should we consider one combined schedule for both mutual fund dealers and investment dealers?**

Subject to our comment in the next paragraph, we agree that separate schedules are appropriate, as a combined schedule for both Mutual Fund Dealers and Investment Dealers would require a number of significant system and operational changes for the Investment Dealer, including changes to external vendors systems. Additionally, we recommend the development of a combined smart form schedule that dynamically displays only the applicable line items based on the dealer's classification. This would streamline the process while maintaining relevance. It would also be beneficial to incorporate built-in validations to ensure consistency across statements and schedules—particularly for balances or figures that carry over from one section to another. This would enhance accuracy and reduce the risk of reporting errors.

If a Mutual Fund Dealer elects to expand its business model to include margin and other products and services, then they should be required to either use the same schedule as Investment Dealers, or potentially, use a newly created schedule that captures their current "vanilla" mutual fund-related

activities and their new products, services and activities. The approach would lessen the burden on these smaller Mutual Fund Dealers as they can continue satisfying their reporting obligations without needing to adopt a new schedule to report the same information they currently do.

**11. The current concentration schedule allows Dealers to look through to underlying securities where the concentrated product is a broad based index. Does the proposed change allowing this approach on a broader basis to diversified investment products such as mutual funds that have a basket of underlying investment products (not including derivatives) provide sufficient operational flexibility to Dealers in managing potential concentration exposures? Or, should we consider excluding these types of fund products from concentration testing based on their risk profile?**

We recommend excluding fund products that have a basket of underlying securities from concentration testing. This would include index mutual funds and exchange traded funds (ETFs) where the underlying securities are based on a broad-based index, since investors are seeking exposure to the index as a whole rather than any single component or underlying security. The need to look through to the underlying securities would not be a simple task and Dealer Members would need to determine how and where to source the data efficiently and in a timely manner to ensure that it can be factored into the concentration calculation, which would also become more complex.

**12. To what extent is it appropriate to apply a phase-in approach for mutual dealers to adopt the counterparty margin requirements for acceptable counterparties and regulated entities? What is an appropriate extended transition period?**

We recommend a minimum of a 2-year transition period to enable Dealer Members to gather underlying data, create and test a process.

**13. Considering all the phases of this project, are the Proposed DC Rules aligned with the objectives of the project? To what extent have the Proposed DC Rules introduced excessive regulatory burden?**

We support CRO's plan to republish the entire set of Proposed DC Rules for public comment prior to their approval, as noted in CRO's 2026 Annual Priorities.<sup>6</sup> This is necessary given the amount of time that has elapsed from publication of the first phase of the project to this final phase.

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<sup>6</sup> [CRO's 2026 Annual Priorities | Canadian Investment Regulatory Organization](#)

Stakeholders would benefit from an opportunity to assess and provide final feedback to CRO on the proposed rules as a whole to help identify any concerns that may have arisen over the course of the project or that may only become apparent when reviewing all the proposed rules together.

To some extent, we have noted that the project has lacked sufficient coordination with other initiatives, such as Derivatives Rule Modernization rules that are now being changed with different defined terms, although they were recently implemented, which demonstrates a tenuous regulatory purpose behind these changes. The costs of such rapid change to rules without a well-established regulatory need is steep and does not align with the objective of reducing regulatory burden for Dealer Members.

## **Additonal Feedback**

### **Client Free Credit Segregation Deficiency Capital Charge**

The requirement for all Dealer Members to adopt a capital charge for any client free credit segregation deficiency that exists for more than one business day, per Proposed DC Rule 4386(3), is of great concern as it deviates significantly from the current rules:

- The existing IDPC Rule 4385(2) imposes no charges in the event an Investment Dealer uses client free credit balances within its business and identifies a deficiency in the amount to be segregated. The Investment Dealer has up to 5 business days to correct such deficiency.
- For Mutual Fund Dealers, immediate action is required to correct a deficiency related to the segregation of cash under Mutual Fund Dealer Rule 3.3.2 and a capital charge is only required where a deficiency is unresolved.

Under the Proposed DC Rule 4386(3), all Dealer Members would be required to correct any deficiency within 1 business day. Further, the Dealer Member would be subject to a capital charge if unresolved after the 1 business day. The proposed change has shortened the timeframe for a Dealer Member to review, address and correct any deficiency and added a capital penalty for failing to correct in a shorter timeframe. This proposed change would increase regulatory burden on Dealer Members as they will have to set aside more capital to ensure that they do not fall into a deficiency and be subject to the penalty and enhance processes to ensure a quicker turnaround in the event a deficiency is realized. It would be helpful to understand whether CRO has identified evidence supporting cause for concern associated with the current IDPC and Mutual Fund Dealer rules such that the current approach is no longer feasible.

## Complaints Handling

Phase 5 proposes to remove the requirement that Dealer Members policies and procedures must address handling complaints with a balanced approach. The rationale provided for this change is that CIRO determined that this requirement is “inconsistent with the Dealer Member’s and Approved Person’s obligation to put the client’s interests first when managing conflicts of interest.”

We note that this is not the relevant standard for complaint assessment generally, as complaints are not assessed by putting the client’s interests first, but objectively on the merits. To put the client’s interests first in complaint handling would obviously resolve each complaint as the client wishes but that would not lead to a fair or objective result in many cases. The placing of clients interests first relates specifically to managing conflicts of interest which is a different test for a different purpose and is misaligned with the objective of complaints handling.

In the circumstances, we recommend that Proposed DC Rule 3753(1)(ii) be amended to state that a Dealer Member’s policies and procedures must specifically address a balanced approach that objectively assesses the merits of a complaint including consideration of the facts of the complaint.

## Reporting Requirements

Below we provide additional comments related to proposed reporting requirements:

- Proposed DC Rule 3711(3) requires the Dealer Member to report to CIRO “the resolution of: (ii) any internal disciplinary action set out in clause 3711(1)(vii)”. This relates to internal disciplinary actions for serious misconduct against an Approved Person or employee. Under what circumstances would internal disciplinary action taken require a resolution?
- Mutual Fund Dealer Rule 600(8.1)(c) requires reporting to CIRO when a Notice of Termination is filed for an Approved Person and the termination was for cause or discloses information regarding internal discipline or restrictions for violations of regulatory requirements. This is in addition to the requirement to separately report misconduct and internal investigations. Will such reporting be captured as part of the reporting of the resolution of internal investigations under Proposed DC Rule 3711(3)?
- Regarding reporting the “denial, cancellation, suspension or addition of terms and conditions to a registration or license by any regulatory organization or SRO, professional licensing, credentialling or registration body” required by Proposed DC Rule 3710, we note that credentialling bodies typically confer professional designations rather than registration or

license. Additionally, the reference to registration or license is too broad and could potentially extend to other registrations and licenses that are not related to Dealer Member related activities such as a skilled trade license, boating license, etc.

- Under Proposed DC Rule 3711, the Dealer Member is required to report payment of “substantial compensation” to a client. CIRO noted in its Phase 5 proposal that it expects Dealer Members will use their professional judgment in determining what substantial compensation means, considering their business practices and the client’s circumstances. In our view, absent more specific guidance, this approach could lead to significant inconsistencies within the industry, since the meaning of “substantial” is subjective in nature.
- Mutual Fund Dealers are not required to report events regarding Approved Persons resident in Quebec if the event occurred within Quebec. This includes reportable complaints as well as other reportable events. Will this continue to apply under Proposed DC Rule 3711?
- Proposed DC Rule 3720 states that the "Dealer Member must conduct an internal investigation, which includes an internal compliance review...". This is a new requirement and "internal compliance review" is not defined. In our view, it is unnecessary to call out the need for an internal compliance review since an internal investigation would cover all necessary reviews to determine the cause and impacts of the serious misconduct being investigated.
- Proposed DC Rules 4202-4209 introduce a new reporting obligation for Mutual Fund Dealers to provide clients with a summary statement of the dealer’s financial position. Mutual Fund Dealers that are subsidiaries of large financial institutions are typically included in the financial institution’s statements and disclosures such that they do not have dealer standalone financial statements to provide to clients upon request. It would be helpful for CIRO to provide further information about what is expected to be included in the summary statement and whether providing the financial institution’s financial statements in the above scenario would be sufficient.

## **Recordkeeping Requirements**

Regarding proposed recordkeeping requirements, the following items would benefit from additional guidance:

- Regarding Proposed DC Rule 3813, what details should be included in ledgers for investment products if transfer and investment products failed to receive and failed to deliver? What books and records are required to be maintained for account transfers and failed transfers?

- Proposed DC Rule 3855(2)(i)(a) - Transaction confirmations now requires “(a) the name, address and *contact* of the Dealer Member.” What is meant by “contact” of the Dealer Member if Proposed DC Rule 3855(i)(d) already requires disclosure of the name of the Registered Representative and Investment Representative?

### **Counterparty Credit Risk**

The proposal to adopt IDPC Form 1 provisions concerning non-allowable assets will impact Mutual Fund Dealers, particularly, as it scopes in "commissions and fees receivable" as a non-allowable asset. The current MFD Form 1 does not explicitly exclude the treatment of trailer fees under the allowable assets category. The proposed change would be impactful to smaller Mutual Fund Dealers as more capital would be required to be held. Although CIRO's intent is to align with the existing broker dealer provisions, the implication is that capital requirements are increasing for Mutual Fund Dealers.

### **Schedule for Mutual Fund Dealers to Report Broker Trading Balances**

Another area of significant impact to capital, from a Mutual Fund Dealer perspective, is related to broker trading balances, mutual fund redemptions and receivables. We would ask that CIRO provide further clarification to determine whether the requirement is based on a difference between the market value and redemption value for the mutual funds or how to calculate or obtain this information. In addition, this would be a complex calculation to implement and would require at least 2 years of lead time.

### **Insurance**

The proposal to adopt the Mutual Fund Dealer 2 business days timeframe to report to CIRO insurance-related claims is not reasonable as the process involves obtaining an acknowledgement from an insurer prior to notifying CIRO and this acknowledgement could take up to a week or longer. We recommend a minimum of fifteen business days to report a claim to CIRO.

### **Service arrangements vs. outsourcing arrangements**

Regarding Proposed DC Rule 2490, it would be helpful if CIRO could clarify the following:

- Is this rule intended to replace or supplement Guidance Note 2300-21-003 on Outsourcing Arrangements<sup>7</sup>, or to apply rules to all arrangements a Dealer Member may engage in, such as those involving "core activities" to which the Guidance Note requirements apply, and those involving "non-core" activities, which are excluded from the requirements of the Guidance Note?
- Guidance Note 2300-21-003 describes "non-core" activities as those eligible to be outsourced and "would not give rise to regulatory concern". Examples of "non-core" activities given in the Guidance Note are office service management activities and human resources activities. Are these "non-core" activities now in scope under Proposed DC Rule 2490 and if this is the case, could CIRO advise what changed respecting these activities to make them now a regulatory concern?
- Are Mutual Fund Dealers required to consider Guidance Note 2300-21-003?

### **Electronic Delivery of Client Documents**

We note that CIRO proposes to make the electronic delivery (e-delivery) of certain documents the default method of delivery. We agree that this will have an overall positive impact in the long term. However, we recognize that there may be significant implications to some Dealer Members in adopting a default e-delivery approach. We therefore encourage CIRO to amend the provisions to allow Dealer Members the option of adopting a default e-delivery approach. Additionally, it would be helpful to understand whether the CSA is aligned with this proposed change.

### **DC Rule 3816(1)ix): evidence that the client was informed of fees and charges**

It would be helpful to understand whether verbal confirmation would be considered adequate evidence that the client was informed as contemplated by this requirement.

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We thank you for taking the time to consider our views regarding Phase 5 and trust that you will find these comments helpful. We would be pleased to discuss our comments further at your convenience.

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<sup>7</sup> [Outsourcing arrangements | Canadian Investment Regulatory Organization](#)