

Hi,

I am a professional working in the regulatory space. I have worked for CRO registered firms and other firms related to CRO registered firms for the past 10+ years, including a significant amount of time in the transfers department. I have extensive direct experience processing transfers, both in and out. I would like to provide commentary on the above noted bulletin.

In my opinion the proposed amendments will not materially improve the transfer process, while introducing additional burden on the receiving firm/registrant. The reality of account transfer is that the relinquishing firm has control over the process, and there is no incentive for that firm to process the request promptly. This is true for the following reasons:

- Generally speaking, maintaining assets on book in a revenue generating activity, and transferring out is a revenue loss activity.
- Slow and issue-prone transfers out can often lead to a client remaining with the relinquishing firm, simply due to complexity and effort required.
- Within a given firm transfers department, priority is given to transfers in activities, as these are revenue generating activities.
- Many transfers are associated with advisors who are leaving one firm to join another. In this case:
  - The value of keeping the assets to the relinquishing dealer is enhanced, as the dealer in question is now receiving 100% of the revenue from those assets rather than the registrant receiving their share, which can exceed 80%.
  - The registrant changing dealers can be significantly impacted financially, negatively. If transferring 90% of their book takes 3 months instead of 1 month the money received by the registrant can be significantly lower, exposing them to financial jeopardy.
  - If the transfer is delayed and the client needs servicing, the relinquishing dealer will service that request. While often there is a non-solicit clause in the contract, this experience can cause the client to elect to stay with the relinquishing firm if they get good service.
- In practice it is very rare for a firm to face regulatory consequences for slow transfers out.

- The MFD Rule 2.12 is not enforceable on non-ciro participants.
- The ATON 10 day rule is not enforced, partially as it depends on firm complaints and firms do not wish to complain and risk being subject to complaints in the future by the target of their complaints
  - In other words firm have an unspoken agreement to not complain about each other, so long as they are all reasonably equally slow.
  - Additionally pissing of another dealer about transfers can lead to them deprioritizing you in the future. For example, if firm A complains about firm B, going forward, if firm B has transfers out to Firms A, C, D, and E, firm A's transfers are likely to be given lower priority.
  - In practice it is better for a firm to keep the peace, regardless of client outcome.
- The rules generally require complaints from the receiving dealer, they are not generally audited, or are audited to a low standard.
- There is no specified penalty for slow transfer out service.

Due to the above the incentive does not exist to transfer out promptly and quickly.

My view is that the proposed amendments do not sufficiently improve the situation.

- CIRO dealer members by and large already implement automated transfer facilities. These facilities do not cause the overall process to be fully automated though, and there is ample manual work remaining for the relinquishing dealer. For example, if the account transferring out is fee based, the relinquishing dealer needs to charge final fees (accumulated but not yet charged) prior to transfer out.
- The definition of “eligible transfers” is not provided.
- Informing the client of transfer impediments has significant extra cost. Transfer impediments are very common, primarily with respect to positions in products/assets that the new dealer cannot hold, or positions being liquidated that have low liquidity. The extra notification required by the proposed amendments would result in significant volumes of extra client communications. In today's world the receiving dealer is already incentivized to keep the client happy, and generally the advisor informs clients where possible and where they deem it to be valuable. The extra effort to inform all clients, in a specified time with specific information, and most importantly

the implicit requirement that they be able to prove this was done, is a huge undertaking.

- Mandating all dealer members to use automated transfer services is a good step, but the cost of using those services is not set by CIRO. The transfer service may be prohibitively expensive for small firms, further incentivizing larger firm consolidation and reducing client options.
  - I have several times looked at what it would take to start a new firm to compete for “ordinary” client money, the numbers are basically impossible until you reach significant scale. This would only make that worse.
- Firms using automated transfer services already use electronic communications where able. These firms use fax communications extensively as well, primarily due to being able to provide a copy of the transfer document, and for wide applicability. The wording of this amendment seems to allow that firms may have to use electronic communications even where its not practical, assuming fax does not count as electronic.
  - ATON having a more fulsome solution, as well as dealer back-office systems like Broadridge Dataphile supporting that sort of thing would help, depending on cost.
- Setting a 10 day timeline is good, but many impediments cannot be resolved in that timeline. By including them in this rule, everyone will fail this rule, and the teeth will be lacking due to that.

More than anything though, these rules fail to address the core issue of incentives. The incentives remain the same as before these rules, and as such I expect no significant changes to the behavior those incentives apply to. I would suggest re-evaluating the situation with a view towards incentivizing firms to transfer out promptly. The specifics are challenging, granted, but I would suggest the following as areas to explore:

- Following the initial receipt of a transfer out request, the receiving firm must move the account to a transfer out rep code, until such time as the client and/or receiving dealer has cancelled the transfer or become unresponsive for more than 15 business days. The receiving firm must make this change within 1 business day of receiving the transfer request.
- The commissions and fees generated on this rep code must be remitted by the dealer to the relevant client protection fund as additional contributions above and beyond the required contributions.

- If the account is moved back to the original rep code due to the first item above, the commissions and fees generated for that account can be directed back to the original rep code.
- Remittance would be aggregate quarterly, and remittance of any specific funds is due by the end of the quarter after the quarter in which the account was moved.
- Receipt of a full transfer out request that is authorized by the client (or attested to be authorized by the receiving dealer, such as via ATON) should cause any fee-based program to be terminated immediately on the client account, without notice to the client. The standard transfer forms should be updated to add this language, as well as client disclosure documents received at account opening.
- Specify that, where a CIRO audit uncovers transfers processed more slowly than possible, the receiving firm is fined a specific amount related to the value of the assets and the days left behind. This fine will be for CIRO to calculate/validate, and in all cases must be at least double the transfer out fee charged.
  - This may be too harsh, but consequences for being slow are needed.

In addition to the above, there are factors at play related to FundSERV and manufacturers on that platform. Many products on the platform fail to redeem or deliver automatically, due to a few reasons.

- Segregated funds often have a stop-redemption indicator on the fund. In practice what this means is the order from the relinquishing dealer to liquidate the position is rejected. The relinquishing dealer must then call the manufacturer directly and request a lift, which is granted every time due to having client instruction. This needlessly increases the effort on the transfer out.
- A dealer may not hold a manufacturer's products without a pre-existing agreement between the dealer and the manufacturer. It is not practical or appropriate for clients and receiving advisors to have complete knowledge of whether a particular product in a client account is eligible for transfer in kind. This leads to two negative practices:
  - Transfer delays where the relinquishing dealer completes the actionable portion of the transfer out (ie. Providing authorization to the fund company to transfer out the account) within the 10 days, only for the asset to not transfer.

- As a mitigation to the above the receiving advisor is incentivized to request the transfer in cash, even if that is not in the best interest of the client due to tax implications on the redemption
- There is a correlation between a manufacturer's products having poor liquidity, that manufacturer not having agreements with many dealers, and clients wishing to transfer out their account. By locking in the client assets in this way these firms discourage transfers out.
  - For reasons of valuation even in-kind transfers are often only made on valuation date, same as a redemption, further exacerbating the problem.
- There are simple systematic issues as well. For a given in-kind transfer, with say 10 mutual fund positions transferring, it is common for at least a few of those positions to reject on ATON. The reasons for rejecting are not generally materially valid, and the standard next step is for the relinquishing dealer to proceed manually. They generate and sign a "POA" for the position authorizing its transfer out to the receiving firm. They provide this document by fax to the receiving firm. The receiving firm then attaches another document, the "rereg letter", with details about new registration of the position such as rep code, account number, etc, and faxes it to the manufacturer, who in turn must manually process the change. This process is not exactly efficient.

Due to the above and more, I believe change is needed not just on the dealer side but on the manufacturer side as well. I would start by examining the following suggestions:

- The hold on segregated funds should not be allowed. Instead the redemption should take place, with right of rescission maintained, and the dealer (receiving if ATON, relinquishing if not) should bear financial responsibility for reversing the sell should the client's wishes have been not to redeem.
- The agreement between a dealer and fundserv, as well as the agreement between a manufacturer and fundserv, should allow that any asset can be transferred in kind with the approval of the client and the receiving dealer. The receiving dealer must at a minimum be allowed to redeem the position once they are the dealer of record. The agreement must be carefully constructed such that the receiving dealer is taking on reduced (though not nearly none) responsibility on the transferred position for a period of time, particularly with regards to KYP and lowest cost. Note also that issues arise when the transferring dealers are of different registrations, IIROC and MFDA. This change must be inclusive of that, such that there is no perverse incentive to invest in

products only available to one registration and not the other, particularly for transfers from MFDA to IIROC.

- Following from the above, receiving dealers cannot refuse assets in kind if they are fundserv assets, and fundserv/manufacturers must not reject these transfers.
- Manufacturers and fundserv must allow transfers in-kind on any business day, not just valuation day, provided that the transfer does not have tax implications to the client. In practice this means if the receiving and relinquishing accounts have the same owners and same registration (RRSP v TFSA, etc).
- Currently for nominee accounts (the vast majority) the manufacturer maintains an account in the name of the nominee (the dealer), and transfers involve opening a new account in the name of the new dealer and moving the assets. This makes sense in a legal sense but can cause problems when some assets transfer but not others, funds of funds, and other situations. This again becomes a perverse incentive for dealers to invest in these situations preferentially to impede transfers out. The process should be changed to simply changing the legal owner of the account from the relinquishing to the receiving dealer, as was done with client name accounts.
  - The manufacturer/fundserv should automatically terminate any programs the new dealer is not eligible for, such as a referral arrangement, a negotiated trailer, etc.

With regards to other transfer agencies there is room for some similar changes, but the problem is much less acute. The only specific I would highlight is around assets that are “frozen”; these assets should be allowed to be moved to a new account with the same registration (owners and type) while frozen. There are challenges around dividends and voting dates and corporate actions involved in this that would need to be solved.

In conclusion, the overall message I have is that the proposed amendments do not materially change the incentives for the relinquishing dealer, and as such I expect that they will not make a material difference. CIRO should focus on changes that address the incentives at play; if they are able to incentivize prompt transfers out of client assets the industry will make it happen.

Thank you.