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Appendix A

Summary of Comments Received in Response to Notice 24-0290 and CIRO's Responses – Rules Notice – Request for Comments – Proposal on Distributing Funds Disgorged and Collected through CIRO Disciplinary Proceedings to Harmed Investors (Phase II)

On October 21, 2024, Canadian Investment Regulatory Organization (**CIRO**) issued Notice 24-0290 seeking comments on a proposal regarding Distributing Funds Disgorged and Collected through CIRO Disciplinary Proceedings to Harmed Investors (the **Proposal**). In summary, under the Proposal, CIRO would set a program for the distribution of collected disgorged funds to harmed investors, building on CIRO's current enforcement processes (which include disgorgement orders and collection of funds through CIRO disciplinary proceedings) and CIRO's existing resources for the program administration (the **CIRO Disgorgement Distribution Program** or the **Program**).

We received 7 comment letters from the following commenters:

The Canadian Advocacy Council of CFA Societies Canada
FAIR Canada
Kenmar Associates
IIAC
MICA Capital
Ontario Securities Commission's Investor Advisory Panel
Osgoode Investor Protection Clinic

Copies of the comment letters are publicly available on CIRO's **website**. We thank all commenters.

The following table sets out a summary of the comments received and our responses.

Summary of Comments	CIRO Response
Extending the Proposal to clients of all CIRO Dealers, i.e., investment dealers, mutual fund dealers and dual-registered dealers	
All commenters agree that the Proposal should apply to all CIRO dealer registration categories. Extending the Proposal to all CIRO dealers would show CIRO's commitment to protecting investors regardless of where they invest, strengthening public confidence in the regulatory system.	Thank you. We proposed to align the CIRO rules so that disgorgement (i) is explicitly included as a sanction and (ii) applies to all CIRO Dealer Members, including investment dealers, mutual fund dealers and dual-registered firms. We published the proposed rule amendments for comment on April 18, 2024 as part of our **Rule Consolidation Project - Phase 3** and on August 21, 2025 under **Rules Bulletin 25-0218**, following which we amended the Mutual Fund Dealer Rules, effective April 1, 2026, to specifically provide for

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	disgorgement.
Limiting the Program to the scope of the underlying enforcement action, where claims are clearly connected to the misconduct that resulted in disgorgement	
All commenters agree with CIRO's limiting the Disgorgement Distribution Program by the parameters of the underlying enforcement action, where claims are readily provable as being connected to the misconduct giving rise to disgorgement.	Thank you. This aligns with the Proposal.
One commenter suggests that CIRO be transparent and publish the methodology for the proposed restraints on claimants' eligibility. This will ensure better understanding and acceptance of such limitations.	We intend to publish the criteria as part of the Program information. In particular, as stated in the Proposal, the following factors will be considered when establishing eligibility: - the investor must have suffered financial losses - derived directly from the misconduct - within the time period covered by the enforcement action - no market-driven losses - no lost opportunity costs - no interest on losses - no non-financial losses - no benefits received as a result of the misconduct - minus any compensation received for the same loss from other sources.
Distinguishing the distribution of collected disgorged funds from restitution and investor compensation options to avoid and prevent investor confusion and overlap with the existing compensation options	
Commenters agree that there is a need to clearly distinguish the distribution of collected disgorged funds from restitution and investor compensation options to avoid and prevent retail investor confusion and overlap with the existing compensation options.	Thank you. This aligns with the Proposal.
One commenter suggested it is critical that the information about the	Thank you. This aligns with the Proposal.

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Program clearly explains that acceptance of a payout from the disgorged funds distributed through the Program would not disqualify eligible investors from seeking further compensation via other channels.	
A commenter reiterated their concern that investor compensation needs to be a higher priority in CIRO settlement agreements and hearings. They want to see CIRO prioritize investor compensation where applicable. They suggest that full compensation payment to investors could be considered a positive mitigating factor in settlement hearings while inadequate or no compensation should be considered an aggravating factor.	We agree with this comment in general. CIRO hearing panels take into consideration whether and what compensation was paid by respondents to harmed investors in their considerations of settlement agreements and liability submissions in contested matters. As a side comment, we note that the goal of the Program is to distribute ordered and collected disgorged funds in CIRO disciplinary proceedings to harmed investors, i.e., not the full investor compensation, which should be pursued through specialized dispute resolution fora, such as courts, OBSI or arbitration. The Program therefore will allow for parallel proceedings and provide mechanisms to avoid double recovery.
Administration of the Program: keeping the claim administration as simple as possible to facilitate investors' access to disgorgement distributions	
All commenters agree that the Proposal to keep the claim administration process as simple as possible to facilitate retail investors' access to disgorgement distributions is appropriate. Eligible investors would be more likely to submit a claim if it is easy to do so.	Thank you. This aligns with the Proposal.

A commenter suggested CIRO establish clear guidelines on the factors it will consider when seeking a third-party administrator and their selection process.	We intend to publish such guidelines as part of the Program. In particular, as outlined in the Proposal, the factors will include:
	
	- the amount available for distribution
	- anticipated complexities of the distribution
	    ○ number of claimants
	    ○ CIRO's ability to provide notice and locate eligible investors

Summary of Comments	CIRO Response
	○ the time period between the losses and the distribution ○ the current location of investors, including accessibility in other jurisdictions etc.
Commenters were pleased with the clarification that CIRO intends to use its existing resources and organizational structure to operate the Program, which will be administered through the General Counsel's Office, working with other CIRO departments, and commended CIRO for conducting an impact assessment and concluding that the benefits of the Program to harmed investors outweigh its administrative costs.	Thank you.
A commenter suggested CIRO adopt a hybrid distribution model, which would grant the Administrator the flexibility to choose between a prorated or needs-based distribution. Specifically, a needs-based distribution model might be more appropriate in circumstances where vulnerable investors, such as pensioners, near-retirees, retirees, or individuals who are on the edge of bankruptcy, are significantly more impacted by the misconduct.	We thank you for bringing the needs-based model to our attention. We have assessed the model and concluded that, at this time, the needs-based model will be challenging to implement. Given our goal of keeping the Program as simple and accessible for investors as possible, it may be difficult and at times impossible to ascertain individual investor personal circumstances and compare them to other investors, which would require a subjective assessment and may result in delays and unfair results to investors.
Inclusion of an internal reconsideration mechanism of the Administrator's determination of investor eligibility and distribution of the funds	
Commenters agree there should be an internal review mechanism to review CIRO's disgorgement decisions.	Thank you.
Some commenters questioned whether it is appropriate for the review to be conducted by the Administrator. The commenter believes to ensure claimants' satisfaction, it might be more appropriate to have an external party to conduct the review.	We proposed that the reconsideration be conducted internally for efficiency and expediency of the process. However, we agree that it should be conducted by someone other than the Administrator who made the original decision. We therefore clarify that the reconsideration will be conduced by an independent internal decision-maker who was not involved in the initial assessment conducted by the Administrator. CIRO's final decisions may also be

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	reviewed by securities commissions.
While most commenters agree that 30 days to request a review is appropriate, others recommend at least 90 days for a reconsideration request.	We believe that 30 days to trigger a reconsideration is reasonable and appropriate in the circumstances of the Program. Individuals affected by the decision will have 30 days from the notice to request a reconsideration. They would not be required to provide further submissions or new evidence. We are concerned that 90 days to trigger a review may unnecessarily delay the process, which would be unfair to other claimants as the distribution process would not begin until all claims are finally determined.
Other comments	
Support for the Proposal	
All commenters expressed support for the Proposal and agreed that the proposed framework advances investor protection. Some commenters called for its expedited implementation.	Thank you.
Scope of the Proposal	
A commenter expressed concerns by the limited scope of the Proposal, which applies to funds received by CIRO in payment of disgorgement orders but does not apply to payments received by CIRO in respect of settlement agreements or administrative penalties. The commenter recommends that CIRO amend its Proposal to include the distribution of (a) payments made pursuant to the terms of approved settlement agreements, and (b) payments made in respect of monetary fines.	We anticipate that disgorgement orders will continue to be part of settlements in CIRO regulatory proceedings. Disgorged funds received by CIRO as part of the accepted settlements will be distributed to eligible investors under the Program. Settlements may sometimes reflect funds already returned by respondents to affected investors, in such cases, disgorgement will not be part of the order as the respondent no longer has the funds to disgorge. In appropriate cases, settlements may be structured to place the burden of distribution of disgorgement on respondents to make the distribution process more direct and effective (rather than receiving the funds into the Restricted Fund and administering distributions through the Program). In such cases, CIRO will oversee such

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	distributions as a condition of settlement. As set out in the Proposal, we do not intend to extend the Program to regulatory fines. The significant distinction between disgorgement and fines is that disgorgement removes the benefits obtained by a respondent as a result of their misconduct and as such, connects directly to the investor loss, while fines are regulatory penalties imposed for breaches of the rules, i.e., a condemnation of the misconduct generally, and therefore are not directly connected to investor losses, but rather serve the purposes of specific and general deterrence to uphold high industry standards.
Program transparency	
Commenters recommend CIRO publicly disclose its methodology for calculating disgorgement, how to fairly allocate disgorged funds to impacted investors and the criteria for not making a distribution considered uneconomic.	We expect to disclose how disgorged funds are allocated between eligible investors and publish general details of all disgorgement distributions, as well as cases where disgorgement was collected but the distribution was deemed uneconomic.
Commenters also recommend that the Program statistics be included in an annual report, including the number of disgorgement orders made, amounts ordered, amounts collected, and amounts distributed to harmed investors, and a ten-year chart be included to highlight trends.	Thank you. We expect to publish details on the Program performance and trends in CIRO Enforcement annual reports.
A commenter suggested a robust process for CIRO exercising its discretion not to distribute funds be implemented to help instill trust in the Program framework. The framework should include guidelines as well as a disclosure of instances where CIRO decided a distribution was unwarranted and why in its annual Enforcement reports and on its website.	We thank you for your recommendations. We intend to implement a high level of transparency about the Program and its distributions, including a dedicated section of the website and expect to include the information on distributions in CIRO Enforcement annual reports.
Dealer Member accountability	

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A commenter suggests CIRO develop a process to ensure CIRO Dealer Members do not benefit from misconduct of their Registered Representatives just because they were not named in an enforcement action involving the representative(s). When the fees and /or commissions received relate to unsuitable activities, the Dealer Members share of the monies must be returned to harmed investors, not retained by the Dealer Member.	Enforcement staff assess each individual case on its merits to determine whether, in addition to an individual advisor, there is a case against the Dealer Member. In appropriate cases, Dealer Members could be named as respondents jointly or in a separate disciplinary proceeding. This practice will continue when the Program is implemented. Dealer Members may be held responsible for their respective share of investor losses where a hearing panel has found them liable and made an order against them.
Disgorgement collection	
A commenter recommends CIRO step up disgorgement collection activity to ensure sanctions are a credible deterrent. Without effective disgorgement collection, the value of this Program will decline. They also recommend that the collection of disgorgement orders should take precedence over the collection of fines.	We agree and, as set out in the Proposal, intend to prioritize disgorgement collections over fines and other sanctions.
Uncollected disgorgement	
A commenter suggests that any uncollected disgorgement owing by the Dealer Member's authorized representative should be to the account of the Dealer Member. Financial services providers should be responsible and accountable for the actions of their intermediaries. This practice would prompt Dealer Members to be more vigilant of their staff behaviour.	This approach is only possible if the Dealer Member is named as a respondent and a disgorgement order includes them. As stated above, CIRO Enforcement staff assess each case on its merits and, where appropriate, may decide to prosecute the advisor and the Dealer Member on the same set of facts. This practice will continue when the Proposal is implemented.
Discretion not to carry out a distribution	
Commenters agree generally that if costs of distributing disgorgement are so high that the effort cannot be justified, CIRO should not pursue the distribution.	Thank you. This aligns with the Proposal.
Commenters suggest, to further enhance transparency, that if CIRO	As stated above, we expect to publish details on all cases involving

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decides not to pursue a distribution, it should publish the reasons supporting the assessment.	disgorgement orders, including where funds were ordered and collected but not distributed with a rationale for non-distribution.
Notice to investors	
Commenters agree that broader outreach through multiple platforms (e.g., social media, investor alerts) is essential to maximize awareness of the Program.	Thank you. This aligns with the Proposal.
Timelines for submitting claims	
Commenters support the flexibility in the filing deadline so CIRO can tailor it to the particular group of investors and the expected complexity of the distribution. Several commenters recommend that eligible investors be afforded a minimum of 90 days to submit a claim as in their view anything below that period is too short. Commenters also suggest that CIRO should accept late applications in exceptional circumstances.	We agree with these recommendations and have adjusted the Proposal to set the minimum timeframe for submitting a claim to 90 days and to allow late applications in exceptional circumstances, i.e., claimant is a minor or a senior, or suffered mental or physical incapacity or other illness.
Parallel proceedings	
Commenters agree that investors should not be entitled to receive benefits multiple times in different fora, and that declarations with a “sign-off” are an acceptable approach to preventing double recovery.	Thank you. This aligns with the Proposal.
A commenter suggests that CIRO consider opportunities to further protect investors who may not be “made whole” through the Program by sharing information on multiple communication channels to instruct claimants about commencing actions in separate fora in pursuit of full recovery on a timely basis.	Thank you. As part of the Proposal, we proposed to make this information easily available to investors through the Program.