

January 18, 2021

VIA EMAIL

Member Regulation Policy
Investment Industry Regulatory Organization of Canada
Suite 2000 121 King Street West
Toronto, Ontario M5H 3T9
e-mail: memberpolicymailbox@iirroc.ca

and

Market Regulation
Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto, Ontario M5H 3S8
e-mail: marketregulation@osc.gov.on.ca

Dear Sirs/Mesdames:

Re: Client Focused Reforms – Proposed Rule Amendments for Public Comment and Proposed Product Due Diligence and KYP Guidance (collectively, the “Proposed Amendments”)

The Canadian Advocacy Council of CFA Societies Canada¹ (the “CAC”) appreciates the opportunity to provide the following comments on the Proposed Amendments.

We understand that the Proposed Amendments are intended to make the IIROC requirements uniform in all material respects with the amendments made to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (“**NI 31-103**”) to implement the Client Focused Reforms (“**CFRs**”). We understand from the notice describing the Proposed Amendments that the proposed

¹ The CAC is an advocacy council for CFA Societies Canada, representing the 12 CFA Institute Member Societies across Canada and over 18,000 Canadian CFA Charterholders. The council includes investment professionals across Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. Visit www.cfacanada.org to access the advocacy work of the CAC.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion of ethical behavior in investment markets and a respected source of knowledge in the global financial community. Our aim is to create an environment where investors' interests come first, markets function at their best, and economies grow. There are more than 166,698 CFA Charterholders worldwide in 161 markets. CFA Institute has nine offices worldwide and there are 160 local member societies. For more information, visit www.cfainstitute.org.

changes deal with NI 31-103 requirements from which IIROC dealers are exempted, and we support publishing the proposed rules specific to dealers and their business models. In the absence of the best interest standard, we also support the CSA's new core requirement for registrants to put their clients' interests first when making a suitability determination.

We note that the CSA has been publishing frequently asked questions (FAQs) and would encourage staff at IIROC to remain involved in the CFR implementation and supplement the FAQs with IIROC specific information as required. If IIROC dealer specific implementation questions are raised, IIROC should also group those questions and publish its own set of FAQs to assist members and provide additional clarity and guidance.

With respect to providing regulatory clarity, we understand that there remains some confusion in the industry, specifically with respect to the know-your-product ("KYP") requirements and the expectations on the dealer member and individual representatives themselves, some of which may be answered by the draft Product Due Diligence and KYP Guidance. An example of expectations that may still require further clarification surrounds the framework and level of diligence expected for specific types of securities such as GICs and government backed agency bonds. The draft guidance suggests that dealers may use a risk-based approach to approve securities, and that less extensive product diligence may be required for less complex and less risky securities. Dealers may instead require more specific obligations to be set out with a suggested classification framework to ensure consistency among dealers and reduce the regulatory burden that would otherwise accompany this responsibility being placed on each individual dealer firm and representative.

The guidance notes that product due diligence can vary based in part on a dealer's business model, but absent models that support other dealers or dealers providing order execution only services, many dealers have a very similar business model (whether they sell to retail or institutional clients), and thus that factor is ambiguous and may leave interpretation of the requirements entirely up to each dealer as a very onerous task.

We appreciate that the retail suitability requirements will require consideration of a reasonable range of alternative actions, and that IIROC is working on a second guidance note to provide clarity on the enhanced suitability requirements. IIROC may wish to consider including supplementary supporting language explaining how a consideration of alternative results will lead to a recommendation that puts clients' interests first. As CFA charterholders, we believe the process of comparing alternative products will help the representative avoid heuristic biases and make a more informed decision about the cost, risk and return characteristics of the securities. Such an explanation may assist dealers to better understand the new requirements (for example, understanding their responsibility when choosing one global balanced fund over available alternatives, or a GIC instead of a money market fund with a similar yield).

The July 2020 consultation report issued in Ontario by the Capital Markets Modernization Taskforce asked questions relating to distribution of investment products to investors through bank owned shelf distribution channels and whether access to products from independent product manufacturers are restricted. At the time of the report, the Taskforce was recommending that closed product shelves/proprietary only shelves should not be permitted in this channel, and that independent products should have to be placed on their shelves if requested by an independent manufacturer unless the dealer has reasonably determined that a particular product is not suitable for their clients. We are of the view that the current KYP requirements should be permitted to take hold before initiating any potential rules for shelf access. We note however, that additional and more specific KYP guidance provided at this time may help pre-empt unintended consequences if in future additional rules are instead added with the purpose of narrowing the issues for dealers from a KYP perspective.

With respect to the specific exemptions from the Proposed Amendments, we agree that dealers who offer order execution only accounts should not be exempted from the product due diligence requirements for products that they make available on their product shelf. As set out in the draft guidance note, product due diligence is important in order to identify securities that should not be made available to any client.

Concluding Remarks

We thank you for the opportunity to provide these comments. We would be happy to address any questions you may have and appreciate the time you are taking to consider our points of view. Please feel free to contact us at cac@cfacanada.org on this or any other issue in future.

(Signed) *The Canadian Advocacy Council of
CFA Societies Canada*

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