9

CIRO Rule Amendments - Proposed Proficiency Model - Approved Persons under the IDPC Rules

September 17, 2024

ASSOCIATION DES BANQUIERS CANADIENS
CANADIAN BANKERS ASSOCIATION

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

The Canadian Bankers Association (**CBA**)[1] appreciates the opportunity to provide input on CIRO's consultation regarding proposed rule amendments in relation to its proposed proficiency model for Approved Persons under the Investment Dealer and Partially Consolidated Rules (**Consultation)**.

Overall Perspective

Overall, the timeframe noted in various sections of the Consultation appears to be very ambitious and, in our view, does not clearly consider many of the dependencies that would be associated with implementing the new regime. We are not much more than a year away from the expiration of the CSI contract and there are still many key outstanding factors to consider, including and not limited to:

- The finalization of the CIRO Rule Consolidation Project.
- CIRO guidance on exam requirements.
- Identification of exam providers.
- Dealers' ability to operationalize the obligations which will necessitate, among other things, updating policies, procedures, processes, and systems, and training impacted employees.

It should be further noted that this Consultation is one of several concurrent significant regulatory changes impacting dealers, including Total Cost Reporting which comes into effect January 1, 2026. We would urge CIRO to consider all the various regulatory changes that are underway and look for ways to reduce the impact on dealers and Approved Persons.

We also suggest that CIRO establish a formal implementation committee with industry stakeholders to help identify and address questions and concerns on an ongoing basis as this important initiative is rolled out.

[1] 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.

Below we provide our responses to the specific requests for feedback set out in the Consultation followed by our comments on additional topics of interest to our members.

CIRO Specific Requests for Feeback

1. **The practicality of the transition provisions, in particular:**
    a. **The proposed grandfathering provision.**
    b. **The proposed transition provision for those who have enrolled in a CSI exam prior to January 1, 2026, and not yet completed the course and related exam.**
    c. **The proposed transition provision for those who are required to complete the Wealth Management Essentials course.**

a) The proposed grandfathering provision

The proposed grandfathering provision (Rule 2625(2)) exempts those approved prior to December 31, 2025 from many of the new proficiency requirements, provided the Approved Person "continues in the same role." The Consultation specifies that an individual will be considered to continue in the same role "provided they did not cease to be approved for longer than 90 days."

In our view, the grandfathering provision should recognize the established qualifications of professionals after a new proficiency model is in place, full stop. Professionals invested time and resources in the courses and exams through which they obtained licensing and gained experience working – it is unclear why someone who is not an Approved Person for 90 days should have to requalify and invest in a new exam after such a short period. If an individual is on extended leave, such as parental leave, would they be required to requalify and pay for exams?

Basing the grandfathering provision on a specified and very short 90-day absence from being an Approved Person potentially prejudices women professionals, persons with disabilities or illness, or others who may need to take extended periods of time off. It may ultimately act as a barrier to inclusivity and diversity by limiting the flexibility of engagement opportunities in the

industry and perpetuate the current advisor gender gap as negative unintended consequences that are not aligned with CIRO's stated goal of lowering costs of licensing and industry entry barriers.[2]

The provision should instead be focused on whether the role being engaged in after an absence or at any time is actually the same or not. Unless there are discipline issues which imposed on the person a penalty no longer permitting them to be approved for a period of time, there should be no requirement to requalify with exams. Grandfathering of qualifications should remain in effect without having to engage a lengthy and tenuous exemption process. Ongoing continuing education (**CE**) requirements should suffice to bring and keep professionals up to date.

We would also like to note the following items for CIRO's further consideration with respect to the proposed "continues in the same role" approach:

- The 90-day threshold is also unnecessary and incompatible with the current three-year course validity and proposed three-year exam validity rule (Rule 2628), whereby a professional is eligible to re-activate their registration in the same category within three years from the date of their registration termination, without having to retake or rewrite specified courses or exams.

- The concept of "same role" is not fully defined in the Consultation – does it refer to the same registration category or the same job position within the firm? This should be defined as not requiring a different registration category in order to perform the role.

- It would be helpful to provide examples of scenarios where an individual would "cease to be an Approved Person" if the individual nonetheless stayed in the same role.

- With respect to the reference in the Consultation to the proposed approach being consistent with the approach used when new proficiency requirements were introduced by the Investment Industry Regulatory Organization of Canada (**IIROC**) in 2021, there

[2] The under-representation of women as independent financial advisors – A 20-year trend (2022, Environics Research).

were few changes to the proficiencies existing at that time and all courses were sponsored by the Canadian Securities Institute (**CSI**). IIROC introduced one course for supervisors and few individuals were affected by that change, and even then, we understand that some dealers were not able to meet the timeframe and had to request discretionary exemption.

b) The proposed transition provision for those who have enrolled in a CSI exam prior to January 1, 2026, and not yet completed the course and related exam.

c) The proposed transition provision for those who are required to complete the Wealth Management Essentials (WME) course.

These transition provisions raise a number of practical questions and considerations that would benefit from some form of additional published guidance from CIRO. These questions and considerations include:

- Does an individual require the completion of the Conduct Practices Handbook (**CPH**) course if they enrolled in the Canadian Securities Course (**CSC**) prior to January 1, 2026, or will the new mandatory conduct training course replace CPH on January 1, 2026?

- Given the pending expiry of the CSI contract on December 31, 2025, if an individual is starting the process late in 2025, do they have an opportunity to begin the new proficiency process earlier than Jan 1, 2026?

- For those who have enrolled in a CSI exam prior to January 1, 2026, and not yet completed the course and related exam, the transition provision provides that they must successfully complete the course and its exam in one year. Will this one-year period be extended to accommodate individuals on leave (parental or otherwise?).

- What are the implications of the CSC being discontinued post January 1, 2026, for professional certifications that currently require the CSC? Will the CSC continue being a

course individuals can take for other professional certifications, or will the CIRE effectively replace the CSC post January 1, 2026, for other professional certifications?

- Will the Level 1 CFA Institute exam be an alternative for the CIRE exam, similar to acceptance of the CFA exam as a current alternative to the CSC?

- How is content from the current Wealth Management Essentials (**WME**) course being worked into the proposed proficiency model? Can firms require individuals approved as registered representatives to take the WME and will this satisfy post-licensing requirements under the proposed proficiency model?

- The Consultation notes that Approved Persons who trade either in options or futures and rely on grandfathering provisions concerning derivatives are expected to qualify their titles with *options only* or *futures only*. This is not however expressly indicated in proposed Rule 2625(3) which states that such Approved Persons must "ensure that the scope of their permitted activities are clear in all their communication and in all their dealings". Given the potential impact on business cards, marketing materials and correspondence, with attendant associated cost and administrative burden, further guidance from CIRO concerning the scope of consequential titling and communication requirements would be helpful, including whether the registrant is expected to qualify the title on the National Registration Database (**NRD**) (Item 10).

- Regarding the specific exemptions under Proposed Rule 2625(3), it is unclear if Supervisors who are responsible for the supervision of options or futures trading will be exempted from the new requirement to complete the Derivatives Exam pursuant to Rule 2600. The terms "deal" and "permitted activities" suggest that the exemption is applicable to individuals in the RR or IR Approved Person categories. If previously approved Supervisors are grandfathered into their existing category, they should be permitted to supervise in the category of derivatives generally.

- It is noted in the Consultation that the exemption process will remain available. Would it be a formal exemption process that includes a comparative analysis? Clarification or further guidance regarding the "personal circumstances" under which an exemption

might be granted would be helpful.

- A great deal of firm preparation will be required to gather CSI enrollment dates and advise registrants that courses must be completed by December 31, 2026 along with the other conditions outlined in the proposed grandfathering provisions. One of those conditions includes the sponsoring firm submitting an application for approval for the individual, prior to January 1, 2027. This condition means that the individual would not get the benefit of a three-year timeframe to become an Approved Person. As such, the condition requiring the sponsoring firm to apply for approval by January 1, 2027 should be reconsidered. The approval process is yet to be defined, creates unnecessary burden for the firm, and, as a practical matter, includes a deadline occurring during the holiday season which will risk delays in meeting prescribed timelines.

- Regarding the grandfathering provisions related to the WME course:

    - Firms will need to know when the RR retail exam will be available and the required due date. To ensure a level playing field, the RR retail exam should be available at least 35 months prior to the effective date of the rule change.

    - Condensing the period for completion (i.e., for individuals enrolling in 2025) may jeopardize the registration of Approved Persons.

    - Firms will need systems implemented to ensure registrants in this transition period are clear on their choices and deadlines. Significant time and resources will need to be dedicated to creating a system for managing post-licensing requirements (i.e., WME) during the transition period.

2. **The amount of time your dealer needs to update their RR and IR training programs, keeping in mind that the published competency profiles and related sub-competencies will be utilized for providing guidance on the training programs proposed to be completed within 90 days of approval.**

Before addressing the time required to update training programs, we would like to comment on

the proposed application of the firm training requirement to RRs and IRs dealing with institutional clients. There are very few RRs and IRs who deal with institutional clients compared to retail, so the cost and administrative burden for development and maintenance of a training program targeted for this purpose and monitoring the requirement will be unreasonably high and impractical in the circumstances. Institutional clients are generally sophisticated and require bespoke solutions that do not lend to general KYP or account administration training. The practical benefits firm training would bring to the institutional market that would warrant the cost and burden of such programs are not clear. We are also not aware of any issues or concerns arising to date that would require such training programs to be imposed for this market. For these reasons, the proposed formal firm training requirement for those dealing with institutional clients should be withdrawn.

Regarding the time required to update training programs, a typical runway for our members to develop a new learning program is 18 months where there is clear guidance as to the applicable requirements. This process includes but is not limited to retaining technical writers, evaluating third-party service providers, designing the curriculum, compliance review, quality assurance testing, and developing a record retention framework. Given the need to create programs tailored to each Approved Person category, the amount of time required may be substantially longer than 18 months.

With respect to planned guidance from CIRO on the firm training programs, the timing of the publication of this guidance will be important as it will, in effect, determine how long firms have available to update their programs. In other words, work to update these programs can begin only once this guidance is available to firms. As for the content of the guidance, we suggest it include information on the following:

- How dealers are expected to evidence that each element in the competency profile has been sufficiently addressed.

- The extent to which each element of the competency profile must be reflected in the training, given the difference between RRs and IRs in that some IRs may not have a KYC element (for example in an Order Execution Only environment). In our view, the

required training should be flexible enough to align to actual business models.

- The permitted business activities (i.e., trading, account opening) that new hires may perform who have completed the relevant Approved Person exams but not yet completed their conduct and firm training. If Approved Persons are unable to perform registrable activities, we question the benefit of granting the approval prior to the completion of the training program. It is also unclear why the proposal seeks to align with the current Mutual Fund Dealer approach, although the Consultation addresses Investment Dealers only, and notwithstanding that the current process for Investment Dealers has not posed issues.

- Responsibility for reporting completion of post-licensing requirements (firm training, conduct training) to CIRO. To simplify reporting, CIRO could consider requiring dealers to only report in an instance of non-compliance.

- The extent to which firm training may be delivered internally or externally by third party vendors.

- Whether individuals upgrading from IR to RR must complete the internal training and whether the 30/60/90-day training program will still apply under the new regime.

- The timeline of when CIRO will provide exam blueprint and sample exams for each exam category, in English and French, and whether dealers will have an opportunity to review these materials and comment. In our view, dealers should have an opportunity to review and provide feedback on the content of the exams and mandatory CIRE course before the final rule publication in mid-2025 in order to have meaningful discussions to ensure the successful design of new training programs. CIRO's proposed timeline for rule publication (mid-2025) provides a very limited timeframe to implement in anticipation of a January 2026 launch.

We would suggest that CIRO conduct a further public consultation process on this specific topic before publishing the final proficiency rules, to ensure there is sufficient conforming guidance for

firms to implement new training programs.

3. We are interested to know if dealers will take an active role in training their new hires to prepare for the proposed exams.

More information is required to better understand CIRO's exam framework to determine the role dealers will play with respect to training new hires for the proposed exams. While CIRO is proposing not to mandate any courses as prerequisites for prescribed CIRO exams, individuals who wish to take CIRO exams should have access to educational materials with a certain level of consistency across the industry. Should certain dealers choose to provide any form of training to a new hire or employee to help prepare them for prescribed CIRO exams, we would like to confirm whether CIRO would subsequently be examining the content of such dealer training.

To facilitate the exam preparation process, we recommend that CIRO:

- Clarify whether it has a list of approved exam preparation educational providers or whether CIRO plans to accredit any of the educational providers. Having this information as soon as possible prior to implementation of the new proficiency regime would help dealers transition and plan for a new hire or an Approved Person's onboarding and ongoing proficiency requirements.

- Clarify whether CIRO will be developing and delivering any of the exams and the process for oversight/supervision of the examination sessions.

- Make all practice exams available in French prior to January 2026.

- Provide transparency regarding the RFP process being undertaken to select third-party vendors to design the CIRE exam.

- Address how any gaps in training availability will be managed– e.g., if there is a shortage of third-party/non-dealer course providers.

4. We are interested to receive comments on the relevant experience proposed and the types of experiences that dealers find common and relevant.

We agree with CIRO's proposal to take a more principle-based approach to baseline education and experience requirements and would like to see the guidance on relevant experience published well in advance of the implementation of the new proficiency regime. Some of the questions such guidance should address include:

- How will work experience equivalency be determined? Will each firm apply the same equivalency standards?

- Do the four years of relevant experience need to be consecutive, or can they be gained over a given span of time?

- Guidance on determining accredited post-secondary institutions for employees from overseas and understanding what relevant experience is. Guidance in this regard should not be unnecessarily narrow as it may lead to limiting the pool of available candidates and hinder diversity and inclusivity by creating an unnecessary entry barrier into the industry contrary to CIRO's stated goal. The guidance should recognize relevant education and experience obtained in foreign jurisdictions such as members of the Financial Action Task Force in good standing and be provided for consultation as part of this initiative. Proposed Rule 2603 indicates that the experience must be "acceptable to the Corporation" however it should also indicate that relevant experience is determined based on the dealer's professional judgment so that dealers can make hiring decisions efficiently with the benefit of clarifying guidance established further to issuance for comment, rather than engage in protracted regulatory evaluations that result in inconsistent determinations of what is "acceptable".

- How will dealers determine the relevancy of an educational degree/diploma? Will CIRO provide a list of accredited institutions? What sort of documentation/ verification would dealers need to keep in this regard?

Additional Feedback

Mandatory Conduct Training, Firm Training and Automatic Suspensions

In our view, the proposed mandatory conduct training will overlap with existing conduct training that dealers provide annually to their employees, including new employees immediately after their joining. CIRO should consider withdrawing the requirement or exempt firms that already have robust Code of Conduct/Business Conduct/Compliance periodic training.

We recommend that more flexibility be permitted by allowing the completion of the conduct and firm training either before or after approval (within 90 days), without an automatic suspension provision. This would be in recognition of the fact that it is operationally difficult for new registrants to complete mandatory training courses within short time periods after registration as they are also completing many other mandatory internal courses during this time.

There are a number of practical unintended consequences that could result from the way in which suspensions are structured in the Consultation:

- Qualified Approved Persons could find themselves suspended due to an administrative oversight, resulting in negative client experience as client accounts may be left unmanaged and may not receive advice while the automatic suspension is in effect.

- The suspension may have significant financial impact during periods of market volatility.

If an automatic suspension approach is ultimately adopted by CIRO, we note the following items for CIRO's further consideration:

- CIRO should reconsider the automatic suspension of qualified Approved Persons for failure by an investment dealer to notify CIRO of completion of proficiency requirements

within the prescribed timeline. We propose that CIRO implement a reasonable grace period of at least 10 business days and prior notification to dealers to give dealers the opportunity to submit the training completion notification to avoid unintentionally suspending an otherwise qualified Approved Person.

- CIRO should provide a timeline between when it is notified of proficiency requirement completion for a suspended individual and when registration is reinstated. We are concerned that resourcing constraints at CIRO may negatively impact the timing of reinstatement of a suspended individual.

- The process for reinstatement for those that have been automatically suspended should be clarified. The Consultation indicates that "…failure to complete [firm training] would result in suspension of the individual **until the training is completed and reported**." (Emphasis added). This mechanism for reinstating an individual does not appear to be reflected in the text of the proposed rules and it is not clear whether this approach to reinstatement would apply to failure to complete the conduct training.

RR Baseline Experience Requirement Increased to Four Years

We note that CIRO has not articulated why it was deemed necessary to double the proposed baseline experience requirement for RRs to four years, rather than two years as originally proposed. It is difficult to assess the reasonableness of the increase as this would depend on what "relevant experience" would mean, which has not yet been clarified through proposed guidance.

It should also be made clear that the baseline education and experience requirements will apply to RR's only and will not apply to IRs.

Reporting Responsibilities and the NRD

A number of items regarding reporting and course completion should be clarified:

- Will responsibility for reporting completion of CIRE and Approved Person exams rest with CIRO or the individual?

- What completion looks like for the CIRE and Approved Person exams (i.e., will a completion certificate be provided, to be included in the NRD application?)

- Will the NRD application still be required and at what point in the process? Will it be part of the approval/registration process after the completion of the CIRE and Approved Person Exam?

New Experience Requirement for UDP and all Executives

The Consultation proposes a new requirement that the Ultimate Designated Person (**UDP**) and all executives have a minimum two years of relevant experience. The Consultation states that CIRO views "the relevant experience to be based on the category of approval, the responsibilities of the Executive, and the firm's type of business. Experience in one type of business may be relevant for one business type but **may not be** considered relevant for another dealer's business model or even another Executive role." (Emphasis added).

The potential impact of this requirement is that, within large integrated financial institutions, executives of a subsidiary within the financial institution that is not a CIRO registrant (or a CIRO registrant in a different business model (i.e. Order Execution Only)) may not be approved to serve as an executive of another entity within the financial institution that is a CIRO registrant. An unintended consequence of this requirement may be to reduce diversity of experience of executives, particularly for directors, who are not involved in the day-to-day business of the dealer. Accordingly, we request that directors and officers who are not involved in the day-to-day management of the business be exempted from this new requirement.

Transition Between Approved Person Categories

There does not appear to be any guidance outlining the requirements for transition between Approved Person categories (i.e., IR to RR, RR to APM or PM, mutual fund to RR, etc.). Will the transition involve a combination of exams and firm-led training? There should be clear steps/ requirements for successful registration in each category.

Mutual Fund Dealing Representatives (MFDR) Considerations

We understand that this Consultation is focused on the proficiency regime as it relates to individuals at Investment Dealers. However, any proficiency model changes will likely have implications to MFDRs due to the movement to harmonization of Investment Dealer and Mutual Fund Dealer Rules. In consideration of any future changes to the proficiency regime relating to Mutual Fund Dealers, we encourage CIRO to keep the MFDR proficiency and registration requirements separate from the IR and RR categories for Investment Dealer firms, such that it does not impede a continuous flow of qualified new registrants and thus limit the ability for investors to access qualified advice.

In addition, we understand that CIRO is ending its contract with CSI, but we encourage CIRO to not prematurely terminate contracts in the MFDR industry such as the contract with Canadian Institute of Financial Planning (**CIFP**) and the IFSE Institute. Mutual Fund Dealers use the CIFP and IFSE Institute extensively for their course preparation and CE needs. This relationship should be maintained to ensure that MFDRs have access to quality training to maintain their high-level proficiency.

CE Considerations

The Consultation has not provided details on the implication of the proposed proficiency model on CE requirements. Currently, there are separate Mutual Fund and Investment Dealer platforms to report CE to CIRO. Under the new proficiency model, what will be the reporting requirements and what changes, if any, will be in scope? Some of the questions to be addressed include:

- Will CSI continue to be recognized as a provider of CE credits, for example in respect of the 30/90 post-licensing requirements?

- Who will supply the 1-3 hours of conduct/compliance training provided by CIRO (i.e., amendments to existing CSI contracts)?

- How will CIRO recognize Professional Development credits for CE going forward – will firms need to self-accredit in house or will CSI still be recognized as the provider for CE credits?

****

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