

February 26, 2025

Member Regulation Policy
Canadian Investment Regulatory Organization (CIRO)
Suite 2600
40 Temperance Street
Toronto, Ontario M5H 0B4
e-mail: memberpolicymailbox@ciro.ca

Re: Non-tailored Advice in the Order Execution Only (OEO) Channel

FAIR Canada is pleased to provide comments in response to the above-referenced Consultation.

FAIR Canada is a national, independent, non-profit organization known for balanced and thoughtful commentary on public policy matters. Our work includes advancing the rights of investors and financial consumers in Canada through:

- Informed policy submissions to governments and regulators
- Relevant research focused on retail investors
- Public outreach, collaboration, and education
- Proactive identification of emerging issues.¹

A. General Comments

We are pleased that CIRO is evaluating how CIRO investment dealers offering OEO account services (OEO Dealers) can provide non-tailored advice to meet the needs of do-it-yourself (DIY) investors. We also welcome efforts to enhance investor protection by ensuring access to high-quality information from verified sources and tools to help them make better investment decisions. Ultimately, CIRO should strive to ensure that DIY investors are in the best position to make their own suitability assessments.

However, the Consultation mainly seeks to clarify CIRO's guidance about what information and services OEO Dealers can offer their clients without violating the rules against providing recommendations or assessing suitability. Given the significant rise in DIY investors in Canada, it is equally important that CIRO take a broader approach to this review to explore opportunities to help DIY investors better navigate the OEO process. This entails CIRO examining not just its Guidance on OEO account services and activities (the Guidance), but also the existing rules and practices that affect investors' experiences in the OEO channel.

¹ Visit www.faircanada.ca for more information.

Canadians opened more than two million DIY investment accounts in 2020, up from about 846,000 in 2019.² By late 2023, the number of DIY trading accounts in Canada had reached 11.4 million.³ In addition, 45% of Canadian investors now have a DIY investment account.⁴ Research suggests this trend will continue, as the use of advisors is declining. For example, the CSA 2024 Investor Index found that 61% of investors work with a financial advisor, the lowest level since the CSA began tracking this data 18 years ago.⁵ CIRO's research also suggests that about 40% of DIY investors opened an OEO account within the last three years, and many of them turn to social media, the internet and influencers for information and advice.⁶

DIY investing has surged, in part, because the investment industry struggles to provide personalized advice to Main Street investors with smaller portfolios. FAIR Canada's research revealed that 71% of DIY-only investors believe using an investment advisor is expensive.⁷ With their low barriers to entry, OEO platforms make it easy for everyday investors to access the stock market. As more people take charge of their investments, it becomes even more critical for CIRO and OEO Dealers to help DIY investors make informed decisions without giving them personalized advice.

Examining the line between tailored and non-tailored advice is no doubt important. However, as a public interest regulator, CIRO must also assess investors' overall experiences in the OEO channel and the rules and practices that impact them. This includes:

1. **Transparency and Disclosure:** The extent to which OEO Dealers provide transparent and comprehensive disclosures about the risks of DIY investing. This helps investors make informed decisions based on accurate and complete information.
2. **Market Integrity:** The extent to which CIRO's approach to monitoring and regulating OEO Dealers maintains financial market integrity by preventing unethical practices.
3. **Compliance and Enforcement:** The extent to which CIRO ensures OEO Dealers comply with all regulatory requirements and takes enforcement action when necessary to address violations. This includes regular audits and reviews of OEO Dealer practices.

From this perspective, the Consultation overlooks the following critical issues that impact OEO investors' experiences and outcomes:

- Whether OEO account opening information is clear and understandable to the average investor,
- Whether OEO Dealers' account appropriateness obligation should be re-assessed, given that DIY investing is widely available regardless of the client's level of financial literacy and investing experience, and

² CIRO, [Canadians Opening Do-It-Yourself \(DIY\) Accounts in Unprecedented Numbers](#), February 9, 2021.

³ Referenced in the [2023 Annual Report of the Ontario Securities Commission's Investor Advisory Panel](#), p. 6.

⁴ CSA, [2024 CSA Investor Index](#), April 2024, p. 7 [Investor Index].

⁵ Ibid., p. 54.

⁶ CIRO, [2024 Investor Survey](#), May 2024, p. 64 and 73.

⁷ FAIR Canada, [Understanding Do-it-Yourself \(DIY\) Account Holders](#), October 2024, p. 57 [FAIR DIY Survey].

- Whether it is too easy to open an OEO account, particularly higher risk margin and derivatives accounts.

Below, we outline the obstacles DIY investors face, offer suggestions to improve investors’ experiences on OEO platforms, and comment on select issues in the Consultation.

B. The Realities of DIY Investing

DIY investors operate in a complex and sometimes predatory environment, where factors such as low financial literacy and behavioural biases can lead to poor financial decisions and considerable losses. These factors highlight the need for CIRO to thoroughly examine DIY investors’ experiences and develop regulatory responses to foster better outcomes. Stronger protections will help ensure DIY investors can participate in the markets with greater confidence and fairness.

1. Low Financial Literacy

The average investor struggles to understand investing and navigate the opaque, fragmented regulatory system. FAIR’s focus group research on investors in different investing channels revealed a lack of knowledge of investing and the regulatory system.⁸ Participants found the terminology and investment documents difficult to understand. Further, although some believed they had average or intermediate investment knowledge, they showed a lack of understanding by being unable to answer basic questions (e.g., the types of investments they hold).

Other research indicates there is significant potential for enhancing financial knowledge among Canadians. A study by the Ontario Securities Commission (OSC) evaluated financial literacy across various investment-related topics. On average, investors answered only 53% of the questions correctly.⁹

2. Information Overload and Complexity

Information overload and complexity worsen the problem of low financial literacy. DIY investors face complicated account and disclosure documents filled with legalese and jargon. The volume and complexity of the information can confuse investors and lead to poor choices. Investors may also have difficulty discerning reliable information from misleading or biased advice. They may also mistakenly interpret some information as advice.

3. Behavioural Biases

DIY investors are prone to behavioural biases, such as overconfidence, that affect how they perceive information and make decisions. The OSC’s research revealed a “better-than-average effect”, where investors tend to believe they are above average in financial knowledge rather than below.¹⁰

⁸ FAIR Canada, [Focus Groups - Understanding Canadian Investors](#), January 2024.

⁹ OSC, [Investor Knowledge Study](#), September 2022, p. 4. Notwithstanding this relatively low score, the study pointed out that Canada has one of the highest financial literacy rates compared to its global peers.

¹⁰ *Ibid.*, p. 17.

Overconfident investors may fail to conduct adequate research and underestimate risks, leading to poor outcomes.

Another common bias is herding, where investors follow the crowd instead of making independent decisions. Herding can lead to less diversified portfolios as investors flock to popular assets instead of spreading risk. Herding can also inflate asset bubbles, which may ultimately burst and cause significant losses.

4. Digital Engagement Practices (DEPs)

OEO platforms use various DEPs, such as gamification, social interaction features, notifications and social norm indicators, that can harm investors by promoting impulsive decisions and frequent trading. Many DEPs exploit behavioural biases, such as fear of missing out (FOMO), which can lead DIY investors to make decisions that are not in their best interests. The section below on DEPs provides more details about our concerns with these techniques and recommended regulatory responses.

5. Scams and Misinformation

DIY investors, especially those new to investing, may fall prey to “get rich quick” schemes or misinformation on social media. Social media has become a popular source of investment information. Research shows that the proportion of investors using social media for investment information has grown by 18 points since 2020 to 53%.¹¹ However, while social media is a popular source, individuals promoting investment opportunities (“influencers”) are not regulated and may operate from another jurisdiction.

Fraudsters also capitalize on social media’s anonymity and reach to promote fraudulent investment schemes and lure unsuspecting investors. With the use of artificial intelligence (AI), scams are becoming more sophisticated and convincing, making it even harder to determine whether an investment opportunity is legitimate. Scammers use AI to create realistic fake websites, deepfake videos, and tailored messages imitating financial institutions. An OSC study found that AI-enhanced scams present more risk to investors than conventional scams.¹²

To address these concerns and ensure that CIRO’s regulatory framework for OEO trading serves the public interest, we recommend enhancing disclosure requirements, reassessing OEO Dealers’ appropriateness obligations, and considering guidance on the acceptable uses of DEPs.

C. Account Opening Documents

We strongly recommend that CIRO review OEO account opening documents and disclosures to ensure they are in plain language and understandable to the average Main Street investor. Clear, comprehensible, easy-to-read information is paramount for investors in the OEO channel. Complex, legalistic language will create confusion and contribute to poor outcomes.

Research shows that information on OEO platforms is unclear and difficult for ordinary investors to understand. In its study of dark patterns in retail investing, the OSC conducted an environmental scan of

¹¹ Investor Index, *supra* note 4, p. 7.

¹² OSC, [Artificial Intelligence and Retail Investing: Scams and Effective Countermeasures](#), September 25, 2024.

investing platforms. It found that “... all trading platforms present users with multiple, lengthy, complex legal documents...” when they open accounts.¹³ The study also examined the reading level of agreements on three crypto asset trading platforms. It revealed that these documents were at a grade 12-15 or college/university level. In general, documents for the public should be at a grade 8 level, the reading level of an average Canadian.¹⁴ The study suggested that trading platforms simplify information, such as product types, fee disclosures, and privacy policies, that can significantly impact user welfare.¹⁵

Anecdotally, FAIR legal staff reviewed some OEO Dealers’ account opening documents and found them long, legalistic and difficult to understand.

1. Enhance and Monitor Plain Language Requirements

These findings indicate that CIRO needs to strengthen its rules regarding plain language and OEO Dealers’ client communications. Currently, the Investment Dealer and Partially Consolidated Rules (IDPC Rules) require plain language for the relationship disclosure information.¹⁶ However, OEO clients encounter several other documents where the IDPC Rules do not mandate plain language, such as the margin account agreement, the derivatives trading agreement, the derivatives risk disclosure statement, and the pre-trade disclosure of charges. CIRO should extend its plain language requirements to these other critical documents, which would benefit OEO and non-OEO clients alike.

We also urge CIRO to develop plain language guidance to support its dealer members and facilitate a common understanding. Additionally, CIRO should ensure its compliance reviews examine dealers’ use of plain language to help ensure everyday investors can easily understand the disclosures and documents.

2. Prescribe and Test Plain Language Wording in Specific Cases

For certain disclosures, CIRO should go beyond a general plain language requirement because they go to the core of the OEO Dealer-client relationship. Accordingly, CIRO should prescribe the wording of the disclosures under s. 3241(3)(i) of the IDPC Rules, which confirm that the OEO Dealer:

- will not provide any recommendations and that the client is solely responsible for making all investment decisions in the OEO account,
- will not make a suitability determination, and
- will not ensure that the products and account types are appropriate for the client.

These fundamental disclosures explain the relationship between the OEO Dealer and the client, so it is especially important that they are clear and investors fully understand them.

We also urge CIRO to revise the prescribed wording of the leverage risk disclosure statement in s. 3217(3) of the IDPC Rules to use plain language and better emphasize the risks. We are concerned that with the current wording, retail investors may not fully appreciate the nature or extent of the risks. We

¹³ OSC, [Digital Engagement Practices: Dark Patterns in Retail Investing](#), February 21, 2024, p. 31 [Dark Patterns].

¹⁴ *Ibid.*, p. 31 – 32.

¹⁵ *Ibid.*, p. 32.

¹⁶ [IDPC Rules](#), s. 3216(4)(i)(b).

recommend, for example, that CIRO require dealer members to include a statement substantially in the following form:

Borrowing money to buy securities can significantly increase your risks

Imagine you buy a security for \$500, and its value drops to \$250. If you paid for it entirely with your own money, you would lose 50% of your investment.

However, if you buy the same security on margin, you might only put up \$250 of your own money and borrow the other \$250. If the security's value drops to \$250, you lose your entire \$250 investment (100%). Additionally, you still owe the \$250 you borrowed, plus any interest on the loan.

In volatile markets, if the price of the security falls, you might also need to provide extra cash to cover the loss in value.

Additionally, we have the right to sell your securities bought on margin without notifying you, which could result in a significant loss.

We also recommend testing the prescribed disclosures under s. 3241(3)(i) and s. 3217(3) on retail investors to ensure they are easily understood.

3. Make it Easier for Investors to Ask Questions

Finally, CIRO should mandate that OEO Dealers provide contact information enabling DIY investors to speak with a representative to clarify the account opening and other disclosure documents.

D. Appropriateness Obligation

FAIR Canada has serious concerns with the low bar for the account appropriateness assessment. The standard is so low that it calls into question whether it has any real value in protecting investors.

Section 3211(1)(i) of the IDPC Rules state that, before opening an account for an individual, the dealer must reasonably determine, prioritizing the individual's interest, that this action is appropriate for them. Similarly, s. 3402(3)(i) requires the dealer to reasonably determine, prioritizing the retail client's interest, that it is suitable for the retail client to continue having an account with the dealer.

We agree that OEO Dealers should ensure a DIY account is appropriate for each client. DIY investing assumes that investors are capable of making their own decisions and have a certain level of financial understanding. However, research often shows that many investors lack the necessary knowledge and skills. Therefore, it is crucial for OEO Dealers to assess whether a DIY account is appropriate for each client, which is an important part of protecting investors.

Unfortunately, the Guidance sets out only two scenarios where it would be inappropriate for an investor to engage in self-directed investing: (1) the person would be incapable of conducting online activities (e.g., clear and persistent difficulties in completing the new account application form), and (2) the investor is seeking advice.

These thresholds are set so low that the appropriateness obligation is almost meaningless. We believe more should be required of OEO Dealers when assessing account appropriateness. For example, CIRO should consider mandating in the IDPC Rules that OEO Dealers require potential clients to complete an investor knowledge quiz when opening an account, including higher-risk accounts like margin accounts, or to access certain more complex products. The quiz would help ensure that clients understand basic investing concepts (e.g., different types of financial products, diversification, volatility) and promote better financial outcomes.

CIRO could also consider mandating the content of the quiz to make it uniform across OEO Dealers. There would be additional questions for individuals seeking to open a margin or derivatives account. If a potential client fails the quiz, they should be invited to speak to someone at the OEO Dealer who could explain and caution them that, based on their responses, opening an account may not be appropriate. Ultimately, though, the decision should be up to the client.

E. Digital Engagement Practices

A growing body of research shows the negative effects of DEPs on investor behaviour and outcomes. In 2024, the OSC released a report showing how DEPs such as copy trading and leaderboards impact investors. FAIR Canada supports the OSC's suggestion in the report that regulators consider barring OEO platforms from using certain DEPs that are shown to be detrimental to investors.¹⁷ In addition, we strongly support developing guidance and potentially rules to promote the positive uses of DEPs.

1. Prohibit Harmful DEPs in the IDPC Rules

CIRO should consider prohibiting OEO Dealers from offering points or other rewards for trading activity. OSC research found that offering points with no economic value can dramatically increase trading frequency. Participants rewarded with points made nearly 40% more trades than the control group.¹⁸ Frequent trading generally reduces investor returns.

CIRO should also consider banning top-traded lists. OSC research revealed that participants who were shown a list of top trades were 14% more likely to trade top-listed stocks than the control group.¹⁹ This finding suggests that these lists can influence trading decisions and encourage herding.

Another harmful technique that CIRO should consider prohibiting is social interaction feeds. In an OSC study, participants received virtual money to invest in fictional stocks on a simulated trading platform. The OSC found that promoting stocks on a social feed led to 12% more trades.²⁰ The report warned that social engagement techniques could harm investors through under-diversification or excessive risk-taking.

2. Guidance on DEPs

¹⁷ OSC, [Gamification Revisited: New Experimental Findings in Retail Investing](#), October 9, 2024 [Gamification Revisited].

¹⁸ OSC, [OSC Staff Notice 11-796- Digital Engagement Practices in Retail Investing: Gamification and Other Behavioural Techniques](#), November 17, 2022, p. 5 [Gamification Study].

¹⁹ *Ibid.*

²⁰ Gamification Revisited, *supra* note 17.

We recommend that CIRO develop guidance on OEO Dealers' use of DEPs in areas of concern. The OSC's study of dark patterns in retail investing highlighted DEPs in the following areas as particularly problematic:

- Disguising the cost of investing (e.g., hidden fees and information),
- Obtaining personal information without informed consent (e.g., using complex terms), and
- Making it harder to withdraw funds, close an account, or stop a subscription service.²¹

We also encourage CIRO to review how the guidance on advertising, marketing, and social media use for crypto-trading platforms addresses techniques that push investors to act quickly. The guidance warns about "gambling-style" promotions, such as bonuses and time limits, as they may breach obligations to treat clients fairly, honestly and in good faith.²² We would support similar warnings in the OEO Guidance.

CIRO should also consider guidance on managing conflicts of interest when dealers use certain technologies, such as DEPs. In July 2023, the U.S. Securities and Exchange Commission (SEC) proposed rules requiring broker-dealers and investment advisers to manage conflicts of interest using predictive data analytics and similar technologies to ensure they prioritize investors' interests.²³ They would have to identify conflicts of interest and adopt policies and procedures to eliminate or neutralize them. The rules would apply even if the investor interaction does not constitute a recommendation. We encourage CIRO to consider similar guidance.

Lastly, it is important to emphasize the positive uses of DEPs in the Guidance and encourage OEO Dealers to employ them to benefit investors. The OSC's research recommended exploring the beneficial effects of gamification to increase investing knowledge. It noted that DEPs could positively influence investor behaviour (e.g., improving diversification, setting retirement goals and monitoring progress towards them).²⁴ We would welcome more research on how DEPs could be used to impact investors positively.

F. Responses to Consultation Questions

Question 1 : Notifications and Alerts

We support requiring OEO Dealers to issue notifications or alerts generally and agree that important information may not be made available to DIY investors under the existing Guidance.

We recommend that the IDPC Rules require OEO Dealers to issue real-time alerts before trades:

- in volatile products or complex products (e.g., options, futures, over-the-counter (OTC) derivatives, crypto assets, leveraged or inverse exchange-traded funds), and
- on margin.

²¹ Dark Patterns, *supra* note 13, p. 51.

²² CSA and CIRO, [Staff Notice 21-330 Guidance for Crypto-Trading Platforms: Requirements relating to Advertising, Marketing and Social Media Use](#), September 23, 2021, s. 5.

²³ SEC, [SEC Proposes New Requirements to Address Risks to Investors From Conflicts of Interest Associated With the Use of Predictive Data Analytics by Broker-Dealers and Investment Advisers](#), July 26, 2023.

²⁴ Gamification Study, *supra* note 18, p. 3.

CIRO could either (i) define volatile and complex products in the IDPC Rules or Guidance or (ii) allow individual OEO Dealers to determine what constitutes a volatile or complex product and explain how they made the determination.

Notifications and alerts would create friction or “speed bumps” to encourage investors to pause and ensure they understand whether the product or service is suitable for them. They would help avoid impulsive decisions driven by FOMO or market hype that can lead to poor outcomes. The investor knowledge quiz proposed above would serve as a speed bump in the account opening process. It would also be consistent with the stated purpose of the OEO account business model – “... to provide investors **who are comfortable making their own investment decisions** with a lower-cost option to the traditional full-service dealer model” (emphasis added).²⁵

Research supports the need for speed bumps to help investors better appreciate the risks of DIY investing. A study of self-directed investors in the United Kingdom found “... a striking lack of awareness and/or genuine belief in the risk of investing,” with 45% not viewing ‘losing some money’ as a potential investing risk.²⁶

Speed bumps are important to counter the ease with which investors can open OEO accounts, especially higher-risk derivatives and margin accounts. In FAIR Canada’s survey of DIY investors, 88% said opening a DIY account was easy.²⁷ In addition, 88% of respondents reported it was easy to open their DIY options, futures, or OTC derivatives account, and 85% said opening their DIY margin account was easy.²⁸

Our approach aligns with the recommendation of the SEC’s Investor Advisory Committee (IAC). The IAC recommended more disclosure and/or interactions before DIY investors trade complex products and use complex strategies.²⁹ In particular, the IAC suggested an “Are you sure?” prompt that explains the key features and risks of the trade, requiring the investor to acknowledge them before proceeding.³⁰ We agree with this approach. For margin trading, the prompt could notify the customer that the trade uses margin and include the revised leverage risk disclosure statement proposed above. This prompt would support the requirement in s. 3246(1) of the IDPC Rules for dealers to ensure that the client is aware of the risks of margin trading.

Lastly, CIRO should encourage OEO Dealers to employ other speed bumps, such as mandatory educational modules before allowing trades in volatile products, complex products or trades on margin, and warnings regarding excessive trading (see our response to question 2(f) below). The ultimate objective should be to help DIY investors assess suitability for themselves.

Question 2: Self-help Tools

Question 2(b): Model Portfolios

²⁵ See section 1, Background in CIRO’s [Guidance on order execution only account services and activities](#), March 21, 2021.

²⁶ BritainThinks, [Understanding Self-directed Investors](#) - A Summary Report of Research Conducted for The Financial Conduct Authority, p. 5.

²⁷ FAIR DIY Survey, *supra* note 7, p. 27.

²⁸ *Ibid.*, p. 33 and 39.

²⁹ SEC IAC, [Recommendation of the SEC Investor Advisory Committee regarding the Protection of Self-Directed Investors when Trading Complex Products and Utilizing Complex Strategies](#), June 6, 2024, p. 6.

³⁰ *Ibid.*

We do not support allowing model portfolios to reference specific securities. It would blur the line between OEO services and investment recommendations. As the Guidance acknowledges, a model portfolio that names specific securities or issuers is significantly more likely to influence a client's investment decision than a model portfolio limited to broader asset classes and/or industry sectors. Investors might construe references to specific securities as recommendations and mistakenly believe the model portfolios are personalized investment advice.

We also query how OEO Dealers would decide which specific securities to reference and are concerned about potential conflicts of interest. If an OEO Dealer has business relationships or incentives tied to certain securities, it might promote those products in model portfolios, even if they are not optimal for investors.

Question 2(c): Self-assessment tools

We recommend that the IDPC Rules require OEO Dealers to offer self-assessment tools. Many investors lack financial literacy and may not fully understand their risk tolerance, investment knowledge, or financial goals. Self-assessment tools help investors evaluate their experience and awareness before making critical financial decisions. Without these tools, investors may take on excessive risk or misunderstand the complexity of certain products. They would enhance financial literacy and informed decision-making, promoting better investor outcomes. Some tools that OEO platforms could offer include:

- A financial health checklist that assesses the investor's overall financial situation (e.g., income, expenses, debt, savings),
- Questionnaires that evaluate investors' knowledge of various aspects of investing,
- An investment goals assessment,
- A tool to determine what class of investor the individual is (e.g., conservative, balanced, aggressive),
- A risk tolerance questionnaire, and
- Trading simulators that enable investors to learn how markets work and test strategies in a virtual environment without real money at stake.

Question 2(f): Limited, Client-specific Information

We support allowing OEO Dealers to use limited client-specific data that does not include recommendations or rely on know-your-client information to aid investor decision-making. However, they should be limited to situations that may pose risks to investors, rather than encourage trading.

For example, the Consultation suggests allowing OEO Dealers to provide educational content to new clients who have funded their accounts but have not made investments after a certain period. We are concerned these could be viewed as prompts to trade, even in situations where it would not be appropriate to encourage trading. Rather, if CIRO allows OEO Dealers to use client-specific information, it should focus on warnings about excessive trading or trading in high-risk products.

Question 3: Finfluencers

We have serious investor protection concerns with OEO Dealers partnering with influencers and linking their trading platform to the influencer’s platform. Below, we outline the risks and offer recommendations for structuring influencer partnerships.

Conflicts of Interest

Influencer partnerships are paid referral arrangements that create conflicts of interest, which could harm clients. For instance, if influencers receive commissions or other incentives to promote particular products or strategies, it could skew their content.

In a 2023 report, the CSA and CRO identified paid referral arrangements as inherent conflicts of interest that are almost always material and must be addressed in the client’s best interest.³¹ The regulators also warned that paying for client referrals can lead firms to prioritize growing their business over acting in their client’s interests.³²

Blurring the Line between Advice and OEO Services

We are also concerned that influencer partnerships blur the line between advice and OEO services. Investors may believe influencers provide recommendations and that the OEO platform endorses them because of the partnership and the integrated trading platform. OEO Dealers run the risk of being perceived as providing advice.

Influencer Credentials and Quality of Content

Another concern is that influencers may lack expertise in investing and provide misleading or inaccurate information. The Dutch Authority for the Financial Markets studied 150 influencers and found that 80% provided investment tips.³³ However, none of the influencers were licensed to provide investment recommendations and many of them did not have a degree in finance or a related discipline.

Additionally, influencers tend to oversimplify complex financial information and rely on emotional appeals, trending topics, or FOMO. This can lead investors to act without sufficient research and make poor decisions.

Recommendations for Influencer Partnerships

In light of the serious threats that influencers pose to investor protection, CRO should introduce robust due diligence, disclosure and monitoring obligations for OEO Dealers that partner with influencers. We recommend requirements to:

- carefully vet the influencer’s qualifications, experience and content,
- disclose in plain language the nature of the relationship with the influencer and compensation arrangements,³⁴

³¹ CSA and CRO, [Joint Canadian Securities Administrators / Canadian Investment Regulatory Organization Staff Notice 31 – 363 Client Focused Reforms: Review of Registrants’ Conflicts of Interest Practices and Additional Guidance](#), August 3, 2023.

³² Ibid.

³³ Referenced in Serena Espeute and Rhodri Preece, CFA Institute Research and Policy Center, [The Influencer Appeal: Investing in the Age of Social Media](#), January 2024, p. 11.

³⁴ The British Columbia Securities Commission’s proposed [Instrument 51-519 - Promotional Activity Disclosure Requirements](#) is

- make it clear that the finfluencer is not providing personalized advice,
- keep records of social media content generated with finfluencers,
- monitor complaints relating to the finfluencer and the integrated trading platform, and
- promptly investigate and address any patterns related to finfluencers that suggest harm (e.g., frequent trading).

Question 4: Copy Trading

Copy trading should not be permitted, as it is likely a form of recommendation.

Our view is consistent with the OSC’s report on gamification, which recommended that regulators consider limiting digital trading platforms’ use of DEPs shown to harm investors, including copy trading.³⁵ The research showed that copy trading (as well as social interactions feeds) “... had a significant impact on trading behaviour.” It found that participants shifted their investment decisions to mimic the profiled trader, posing significant risks to the retail investor experience.

Copy trading may arguably enhance retail investor participation, have some educational benefits, or offer the possibility of improved returns. However, it also comes with many risks to DIY investors.³⁶ These risks include:

- **Choosing trade leaders:** We query how OEO Dealers would determine which other investors (“trade leaders”) to make available for copying. By curating a list of trade leaders to copy, the OEO Dealer could be viewed as endorsing them and, therefore, making a recommendation.
- **Lack of transparency:** There may be a lack of transparency and disclosure about the trade leader’s performance, strategies and the associated risks and costs. Trade leaders may change their strategies without prior notice to copy traders, which could result in financial harm.
- **Unsuitable strategies:** Copy trading does not consider the investor’s personal financial situation, investment objectives, or risk tolerance. Investors could copy high-risk strategies without realizing the potential for significant losses.
- **Conflicts of interest:** Copy trading can create conflicts of interest and incentives that are not aligned with the best interests of the investors. For example, OEO platforms may pay trade leaders commissions from their followers’ trades.³⁷ This could incentivize trade leaders to trade more frequently than they would to earn commissions.
- **Herding and market manipulation:** Copy trading can amplify herding, where many investors follow the same strategies. This can exacerbate market volatility and increase the risk of market manipulation if a large number of investors follow the same trades, leading to artificial price

instructive. It requires disclosure of social media promotional activity, mandating anyone promoting an issuer to disclose their name and compensation at the time of the activity.

³⁵ Gamification Revisited, *supra* note 17.

³⁶ See International Organization of Securities Commissions, [Online Imitative Trading Practices: Copy Trading, Mirror Trading, Social Trading Consultation Report](#), November 2024, p. 16 - 19.

³⁷ Above the Green Line, [What Is Copy Trading? Strategies, Pros and Cons](#), updated November 29, 2024.

movements. An OSC study noted that copy trading is a significant risk to retail investors because herding can adversely impact investor returns.³⁸

Thank you for considering our comments on this important issue. We welcome any further opportunities to advance efforts that improve outcomes for investors. We intend to post our submission on the FAIR Canada website and have no concerns with CIRO publishing it on its website. We would be pleased to discuss our submission with you. Please contact Jean-Paul Bureaud, Executive Director, at jp.bureaud@faircanada.ca or Tasmin Waley, Policy Counsel, at tasmin.waley@faircanada.ca.

Sincerely,



Jean-Paul Bureaud
Executive Director
FAIR Canada | Canadian Foundation for Advancement of Investor Rights

³⁸ Gamification Revisited, *supra* note 17.