Client Focused Reforms

Frequently Asked Questions

UPDATED APRIL 28, 2022

Staff from the Canadian Securities Administrators (**CSA** or **we**), along with the Investment Industry Regulatory Organization of Canada (**IIROC**) and the Mutual Fund Dealers Association of Canada (**MFDA** and, together with IIROC, the **SROs**), have established the CFRs Implementation Committee (the **Committee**) to consider and provide guidance on operational issues and questions shared by industry stakeholders relating to the implementation of the Client Focused Reforms (**CFRs**).

The CFRs introduced significant enhancements to the registrant conduct obligations which came into force in two stages in 2021. The CFR conflicts of interest requirements came into force on June 30, 2021. The remainder of the CFR requirements (i.e., know your client (**KYC**), know your product (**KYP**), suitability and relationship disclosure information reforms) came into force on December 31, 2021. These amendments to National Instrument 31-103 – Registration Requirements and Exemptions (**NI 31-103**) are relevant to all categories of registered dealer and registered adviser, with some application to investment fund managers. All registrants should have reviewed their operating practices and implemented changes necessary to bring themselves into alignment with the CFRs.

We have compiled a list of questions received by the Committee to date and have set out our responses to provide guidance to registrants about the requirements under the CFRs.

Our responses are intended to add clarity on how certain requirements under the CFRs should be operationalized, while preserving flexibility to the extent possible for registrants to operationalize those requirements in the context of their particular business models. We are not able to provide tailored responses to questions raised by individual registrants, or to provide detailed comments on policies, procedures, controls, sample documents, sample disclosure templates or sample checklists. **The responses do not constitute legal advice.**

We may also provide additional guidance in the future, after the CSA and SROs have had the opportunity to review how different registrants have implemented the CFRs and to assess best practices.

In this document, we refer to exempt market dealers as **EMDs**, portfolio managers as **PMs** and investment fund managers as **IFMs**.

The responses set out below represent the views of staff in CSA jurisdictions and do not necessarily represent the views of the individual securities regulators.

Question		Response
Part 11 – Internal Controls and Systems		
1.	Are training modules required for each material conflict that is identified or is general training related to material conflicts broadly acceptable? Are firms required to train all staff on conflicts of interest or is the training requirement aimed primarily at registrants?	Under Part 11, our expectation is for firms to train all appropriate staff on conflicts of interest generally. This would include all registered individuals and supervisory staff, and additional staff as may be necessary depending on their roles and responsibilities. We expect that this would include compliance staff. For example, most firms provide their staff with training on the firm's code of conduct, which generally includes training about conflicts of interest policies, procedures and controls. Depending on the content, this may be sufficient to evidence training of staff on conflicts of interest generally. Specific training modules may be required for certain material conflicts in respect of certain staff. For example, training on conflicts of interest and firm controls related to compensation arrangements may be needed for all registered individuals and compliance/supervisory staff. Registrants should exercise their professional judgement when developing/implementing training modules and determining which staff require the training.
Know Your Client (KYC) – s. 13.2		
2.	**Risk Profile and Sufficiency of KYC Information** Subparagraph 13.2(2)(c)(v) introduces the concept of risk profile and in the Companion Policy it notes that assessing the client's capacity for loss involves the registrant having an understanding of the other factors prescribed in paragraph 13.2(2)(c), particularly the client's financial circumstances. There may be instances when	While the CFRs clarify our expectation about what elements constitute a client's risk profile (i.e., risk capacity and risk tolerance), the expectations with respect to a client's assets/investments held outside of the registrant are not net new (see CSA Staff Notice 31-336). The overarching principle is that a registrant must always exercise professional judgement to assess whether it has obtained sufficient KYC information in the circumstances, given the client-registrant relationship and the registrant's business model, to meet its suitability determination obligation. This is consistent with pre-CFRs requirements in respect of their KYC and suitability obligations. The CP explicitly acknowledges that some clients may be reluctant to provide relevant KYC information or may delay responding to update requests. The refusal of a client to provide or update all of the information requested by a registrant does not automatically

	the registrant is unable to obtain information about the client's outside holdings which can impact their assessment of a client's capacity for loss. Additional guidance regarding the CSA's expectations for those circumstances where the registrant does not have outside account information would be helpful.	prevent the registrant from servicing the client. A registrant should use professional judgement to consider whether it has collected enough information from the client in order to meet its suitability determination obligation (or whether it should decline to open the account or decline to provide the products or services), and whether the information remains sufficiently current. There are circumstances where a registrant may need to enquire about investments the client holds outside of the registrant to have a better understanding of a client's financial circumstances to sufficiently support its suitability determination (this is the case currently as well as under the CFRs). This information may be particularly important to a registrant's ability to assess whether an investment might lead a client to become over-concentrated in a security or sector or whether the client qualifies for a prospectus exemption. For example, we currently expect dealers to obtain a breakdown of financial assets and net assets of the client to ensure that the information collected accurately reflects the client's financial circumstances and to assist the registrant in assessing the availability of the prospectus exemptions and the suitability of any investment made. We also expect dealers to make further inquiries about the client's financial circumstances in situations where there is a reasonable doubt about the accuracy of information given by the client or the validity of the client's claim to be an accredited investor or eligible investor. We also remind registrants of the requirement pursuant to subsection 13.3(2.1) in respect of client instructions (unsolicited orders). The CFRs requirements and accompanying CP clearly state that a registrant has no obligation to accept a client order or instruction that does not, in the registrant's view, meet the criteria for a suitability determination. In our view, marking the order as unsolicited is not sufficient. The registrant must take the measures set out in subsection 13.3(2.1) and advise the client in a timely manner against proceeding. Specifically, the registrant is required to inform the client of the basis for the determination that the action will not satisfy subsection (1), and recommend to the client an alternative action that satisfies subsection (1); this requires the registrant to have sufficient KYC information.
3.	In a scenario where an individual client has already determined their asset allocation and has sought out a particular PM with a specific focus (for example, North American Small Cap Value) to fulfill a specific aspect of that allocation, can the PM rely on disclosure – be it in the investment management agreement or investment policy statement or otherwise – provided by the client about assets held outside the firm and that the client should inform the PM of any changes with respect to such assets?	In our view, whether it would be appropriate for a registrant to rely on information provided by a client about assets held outside the firm requires an exercise of professional judgement, taking into account various factors. The registrant should take into account the circumstances, including the client's sophistication and expectations for the client-registrant relationship, as reflected in their KYC information and the nature of the client-registrant relationship. In some cases, the registrant may need to make additional inquiries about investments the client holds outside of the registrant to have a better understanding of a client's financial circumstances to sufficiently support a suitability determination. This information may be particularly important to the registrant's ability to assess whether an investment might lead a client to become over-concentrated in a security or sector, and may be relevant even in a case where a client comes to a registrant to fulfill a specific mandate. See our responses to questions 2, 55 and 73.

4.	There may be instances in which the registrant is unable to obtain information about the client's outside holdings, which can impact their assessment of the client's capacity for loss or concentration profile. This risk is particularly acute in the private capital markets where a registrant seldom, if ever, deals with all of a client's investment assets and where the relationship is often specific to a particular investment or episodic in nature. How could a registrant satisfy the "put the client's interest first" requirement in para.13.3(1)(b) if the registrant did not get answers to all of its requests for information, and subsequently it turns out that the client is over-concentrated in private capital markets securities beyond what was disclosed by the client or known to the registrant? Can the registrant be said to have satisfied the "put the client's interest first" requirement in para. 13.3(1)(b)?	We recognize that a client may not always provide a registrant with all of the information that the registrant requests as part of its KYC-gathering efforts. This may be relatively common where the client has sought the services of the registrant for the purpose of making a single investment rather than an ongoing relationship involving a portfolio of investments. We note that such "transactional" or "episodic" relationships are typical of the operating model of many exempt market dealers but not exclusive to registrants in that category. For more on this, see the CP and CSA Staff Notice 31-336 – *Guidance for Portfolio Managers, Exempt Market Dealers and Other Registrants on the Know-Your-Client, Know-Your-Product and Suitability Obligations*. As stated in our response to question 2, it is a matter of professional judgment whether or not a registrant has obtained sufficient information from a client to enable the registrant to make a suitability determination for the client on the basis of the client's overall circumstances, given the relationship between the client and the registrant, and the securities and services offered by the registrant. The exercise of professional judgment as to the sufficiency of KYC information applies to the discharge of both aspects of the suitability determination requirement in subsection 13.3(1): consideration of the factors set out in paragraph (a) and the obligation to put the client's interest first set out in paragraph (b). Once the registrant has determined that there is enough information to provide its services to the client, the suitability determination is made only within the context of that information. A registrant must take into consideration all of the relevant information that it has been able to obtain from the client after making reasonable efforts.
5.	**Keeping KYC Information Current** Subsection 13.2(4) requires a registrant to take reasonable steps to keep the KYC information current and the Companion Policy notes the client interaction should be documented. The frequency of a 12 or 36-month review also raises questions as to whether notes in a file of a phone call is sufficient or if a more formal process is necessary. Additional guidance regarding the	The over-arching principle is that a registrant must always exercise professional judgement to consider whether they have collected enough information to meet their suitability determination requirements, and whether the information remains sufficiently current. The Rule is principles-based and we did not specifically prescribe how a registrant should evidence compliance with this requirement. The general requirement to keep information current is not new and our expectations are consistent with staff expectations in CSA Staff Notice 31-336. The CP provides flexibility in documenting a client's confirmation of the accuracy of information, including any significant changes. Such confirmation may be obtained by alternative methods such as maintaining notes in the client file detailing the client's instructions to change the information or be more formal by obtaining the client's signature (handwritten, electronic or digital).

	CSA's expectations from registrants regarding evidencing compliance with this requirement would be appreciated.	In some cases, notes of a phone call will be sufficient (and these will need to be available for supervisory review). In other cases (e.g., where there have been significant changes in a client's KYC information) we would expect that repapering of that information will take place. The periodic update should include a review of all of the KYC elements with the client – i.e., it would not be reasonable to just update a client's income or employment information and not also ask them questions to revisit their risk tolerance and time horizon. Some firms may find it helpful to use a KYC update form on each periodic update, or when there is a material change, but, again, it is not specifically prescribed in the Rule how a firm should evidence compliance with this requirement.
6.	The CP guidance states that regulators expect registrants to be proactive in determining that KYC information is current and, at a minimum, to periodically confirm with clients that the information they have on file remains current. Please elaborate on what proactive steps a registrant should consider.	We recognize that client-registrant relationships vary and while some clients may contact their registered representative to advise them of a change in their circumstances (for example, marriage, divorce, birth of a child, loss or change in employment) or investment needs or objectives, many others will not. Registrants that have an ongoing relationship with clients should take reasonable steps to explain to their clients the importance of keeping KYC information current and the client's role in this process, and ask their clients to advise them when their KYC information changes. In addition, as noted in the CP guidance, we expect that registrants will periodically confirm with clients that the information they have on file remains current. Registrants could also consider having more frequent review discussions/interactions with clients at set intervals to determine if something major has happened in the client's life. We expect firms to implement policies and procedures that demonstrate that reasonable steps have been taken to keep their clients' KYC information current.
7.	Are registrants expected to update all existing clients' KYC information and reassess the suitability of their investments as of December 31, 2021 or immediately after that date?	Registrants must start to follow the applicable KYC and suitability requirements under the CFRs starting on December 31, 2021. An update of KYC and suitability for all client accounts is not required before that date. We expect registrants to continue to schedule updates in accordance with current requirements up until December 31, 2021, and to schedule updates in accordance with the triggers in subsection 13.3(2) after that date. We remind registrants of their obligation under subsection 13.2(4) to take reasonable steps to keep a client's KYC information current, including updating the information within a reasonable time after the registrant becomes aware of a significant change in the client's KYC information. In order to meet their obligations under subsection 13.2(4), registrants should, when interacting with a client after December 31, 2021, use their professional judgement, given the circumstances of that interaction, to determine if they need to inquire whether there have been any significant changes to the client's circumstances. If the client indicates that there has been a significant change to their circumstances, we expect the registrant to update the client's KYC information as required under the CFR KYC provisions.

8.	**New! Added April 2022** Subsection 13.2(4.1) includes minimum frequency requirements for KYC updates. While paragraph 13.2(4.1)(b) deals with KYC update requirements that are tied to EMDs making a trade or recommending a trade to a client, paragraph 13.2(4.1)(c) states that "in any other case" KYC information must be updated once every 36 months. Please clarify if or how this requirement applies to EMDs that have an ongoing client-registrant relationship.	In paragraph.13.2(4.1)(b) there is no distinction between an EMD that has a transactional or an ongoing relationship with a client. An EMD must always ensure that the KYC information that it has for a client is no more than 12 months old before making a trade for, or recommending a trade to, a client. As noted in the Companion Policy, this requirement extends to circumstances where an EMD that is also registered in another dealer registration category recommends or trades in an exempt security. However, it should be noted that unless the EMD is also registered in another dealer category or as an adviser, it would not be subject to the further requirement in paragraph.13.2(4.1)(c) to review a client's KYC information no less frequently than every 36 months. See also our response to question 61.
Know Your Product (KYP) – s. 13.2.1		
9.	Can a firm that manages mutual funds using internal portfolio managers rely on registered portfolio managers to perform their KYP responsibilities?	Language has been included in the CP to provide flexibility for registered firms to establish KYP processes that work for their business models, provided all of the KYP requirements set out in NI 31-103 are met. Therefore, in the scenario presented, if the firm would like to use advising representatives at the portfolio managers to perform certain of the KYP functions set out as firm requirements under subsection 13.2.1(1), the firm would have to establish and oversee a KYP process that identifies the KYP activities to be carried out and designates those advising representatives as the individuals responsible for carrying out the specified KYP activities on behalf of the firm. All of the KYP activities that the individual portfolio managers carry out on behalf of the firm would have to be documented and the firm would have to have controls in place to ensure that the KYP process it has established is being followed, as the firm remains ultimately responsible and accountable pursuant to Part 11. We note that the individual portfolio managers also have their own responsibilities under subsection 13.2.1(2).
10.	The response to question 9 stated: "*All of the KYP activities that the individual portfolio managers carry out on behalf of the firm would have to be documented and the firm would have to have controls in place to ensure that the KYP process it has established is being followed, as the firm remains*	To comply with their KYP obligations, firms should establish a KYP process that works for their business models while ensuring that all securities that they make available to clients are assessed, approved, and monitored on an ongoing basis for significant changes. The response to question 9 was intended to provide some clarity on how a firm with a specific portfolio manager business model could allocate KYP responsibilities in a way that is appropriate for its business model. In that scenario, we acknowledged that a firm could set up a KYP process to meet its obligations in subsection 13.2.1(1) that may be led by individual portfolio managers.

	ultimately responsible and accountable pursuant to Part 11." Please expand on what this means. Please also confirm whether conducting a branch audit (every 1 to 3 years) would demonstrate that a firm has controls in place to ensure that the KYP process is being done.	However, the firm is ultimately responsible for ensuring that the obligations under subsection 13.2.1(1) are complied with, and must therefore ensure that it has the necessary policies, procedures and controls, including oversight and review, in place. "All of the KYP activities" above refers generally to the due diligence and other KYP activities that the individual portfolio managers are carrying out under the firm's specific KYP process, and these activities must be documented to ensure the firm's compliance with the KYP obligations. We have not prescribed specific time periods for a firm's oversight or review of the activities of its individual representatives where a firm has set up this type of KYP process. Each firm must assess its own KYP process and determine the specific controls that are needed to ensure that its KYP obligations are being met.
11.	Fund manufacturers are required to update ETF/Fund Facts on an annual basis and many registrants use the information disclosed in these documents to help discharge their KYP obligations. In addition, there can be frequent mutual fund changes and updates that occur throughout the year (e.g., changes to the portfolio manager of the fund, the investment strategies, investment time horizon etc.). What are registrants expected to do in these circumstances?	Our expectation is that dealers and advisers would monitor for and use the information disclosed by fund managers (under the requirements applicable to those fund managers), including any information about material changes, in their KYP process. Where any changes are significant changes (for example, a risk level change), we expect the firm to have a process in place to determine whether the change would require further steps to be taken by the firm and representatives (for example, new suitability determinations for clients and potential changes to client portfolios, or changes to the firm's approval of the security, or controls around the sale of the security).
12.	When monitoring the securities that a firm has made available to its clients for significant changes, which data points should registrants take into consideration?	As noted in the Companion Policy, a firm's KYP process should include an appropriate process for monitoring for significant changes to securities that have been approved by the firm and continue to be made available to clients. What constitutes an appropriate monitoring process may vary depending on the type or complexity of the security, as well as on the business model of the firm, the proficiency of its registered individuals, and the nature of the relationships that the firm and its registered individuals have with clients. It is the responsibility of the firm to determine how and at what frequency the monitoring will take place. We have not prescribed specific data points that registrants must take into consideration when monitoring securities to provide flexibility for firms to tailor their processes to the specific securities. In general, firms should consider the elements assessed when the securities were initially assessed under their KYP process and make a determination about which of those elements should be monitored on an ongoing basis, how they will be monitored and at what frequency this monitoring will take place. We recognize that what constitutes an appropriate monitoring process may vary depending on the type or complexity of the securities. As noted in the

		CP guidance, a firm should also consider whether its process in respect of specific securities should include monitoring for significant changes to the business environment or market conditions that would affect the risks or other aspects of the securities.
Conflicts of Interest (COI) – s. 13.4		
13.	**Best Interest Standard** While the CP does provide several examples of COIs and controls, members would appreciate more insight into how registrants can ensure they have resolved the COI in the best interests of the client.	Whether a registrant has addressed a material conflict of interest in their client's best interest will turn on an assessment of the facts and circumstances at the time. The principles-based approach in conflicts is a common and effective approach, particularly where the facts and circumstances of individual relationships can vary widely and change over time. Determining what is in the "best interest" of the client is a facts and circumstances-specific determination, not a check-box exercise. It entails analyzing the reasonableness of what the registrant has done to address the material conflict of interest in the best interest of their client on the basis of what a reasonable registrant would have done under the same circumstances. New guidance in the CP sets out our expectations as to how registrants may address their enhanced conflicts obligations. The requirement to address material conflicts of interest in the best interest of a client is a regulatory standard which, amongst other things, entails that when addressing the conflict, registrants must put the interests of their clients first, ahead of their own interest and any other competing considerations. We indicated in the CP that registrants must address conflicts of interest by either avoiding those conflicts or by using controls to mitigate those conflicts sufficiently so that the conflict has been addressed in the client's best interest. We provide guidance on the controls that registrants could consider including, for example, guidance regarding when a conflict would be material, as well as an escalation procedure on how to handle potential conflict situations. Registrants should look to the examples of controls that have been provided in the CP as examples of the types of controls that they should put in place. In our view, a registrant's COI analysis should include the following key elements: materiality, reasonability and professional judgement taking into consideration the client-registrant relationship and the registrant's business model in order to mitigate those conflicts sufficiently so that the conflict has been addressed in the client's best interest. Registrants are responsible for the implementation and maintenance of policies and procedures to demonstrate their compliance with the conflicts of interest requirements under the CFRs.
14.	Can you provide additional guidance or context in relation to "material conflicts"?	The CP includes guidance on this point. The materiality of a conflict will depend on the circumstances. When determining whether a conflict is material, registrants should consider whether the conflict may be reasonably expected to affect either of the following or both: • the decisions of the client in the circumstances,

		• the recommendations or decisions of the registrant in the circumstances. In addition, the CP also provides examples of controls for inherent COIs that, in our experience, are almost always material COIs.
15.	Consent has historically been one of the acceptable mechanisms for addressing certain material conflicts. Will this continue to be an acceptable mechanism?	Consent without other action on the part of the registrant will not be enough to address a material conflict of interest in the best interest of a client. In the CFRs Notice of Publication (October 2019), we discussed comments that we received concerning consent, what it means to "address" a conflict, disclosure and controls: *"Regarding the requirement that a registered firm must avoid any conflict of interest that is not, or cannot be, addressed in the best interest of the client, one commenter urged the CSA to indicate whether avoidance is the only option, and urged the CSA to indicate whether it is acceptable, for example, to proceed where a client acknowledges and consents to the use of proprietary products";* and *"Many commenters expressed the view that disclosure alone can be sufficient in some circumstances and that the rule should accommodate this by allowing registrants to use their professional judgement about when disclosure alone is sufficient, such as for example when dealing with non-individual permitted clients and implement appropriate mitigating measures. Conversely, other commenters argued that excessive reliance on disclosure to help mitigate conflicts would not meet the principles of the best interest standard."* Our responses included the following: "We believe the term "address" … encompasses a wide range of actions a firm could reasonably take, including implementing appropriate controls to sufficiently mitigate the effect of the conflict, or avoiding the conflict altogether"; and "We recognize that the effectiveness of disclosure as a tool for addressing material conflicts of interest may depend upon the level of sophistication of the clients and the extent to which they are able to understand and act upon the information given to them. However, to address a conflict of interest in the best interest of clients, we believe disclosure in conjunction with other controls (including pre-trade controls, post-trade reviews etc.) must be used. In addition, not only does disclosure sometimes fail to mitigate the risks related to conflicts of interests, but in some cases, disclosure of conflicts may aggravate the potential risks to the client's interest."

16.	In the case of a dealer that exclusively distributes the products of an affiliated fund manager, is clear disclosure that the firm exclusively deals in proprietary products and does not consider the larger market of non-proprietary products (or whether those would be better, worse or equal in meeting the investment needs of the client), along with client consent, an acceptable way to address the conflict? The spectrum of mutual funds made available to dealers is determined by the fund company. An affiliated dealer will in turn determine which of those funds are appropriate for their product shelf. While product assessments may be conducted somewhere else within the fund complex, this is not an exercise that is generally undertaken by the affiliated dealer.	The CFRs are sufficiently flexible to accommodate various business models. The question raises both conflicts of interest and KYP issues. If a client has opened an account after having been given clear disclosure that a dealer or adviser will be using proprietary products, it is reasonable to assume that the client has agreed to a client-registrant relationship on that basis. However, the dealer or adviser must also take other steps to address the conflict before it can proceed, and it cannot rely on the issuer or an affiliate for its product due diligence. The CFRs impose new or enhanced duties on dealers and advisers, including dealers who distribute solely proprietary products and dealers who distribute both proprietary and non-proprietary products, relating to the products that they make available to their clients and any related material conflicts of interest. Proprietary products almost always give rise to material conflicts of interest. *Conflicts of interest* Consent without other action on the part of the registrant will not be enough to address a material conflict of interest in the best interest of a client. We believe disclosure in conjunction with other controls (including pre-trade controls and/or post-trade reviews) must be used. The Companion Policy has guidance concerning both the steps that we expect dealers and advisers to take to address conflicts arising from proprietary products, and our expectations for conflicts disclosure. *KYP* To comply with the new KYP requirements, dealers who distribute solely proprietary products and dealers who distribute both proprietary and non-proprietary products must undertake their own product assessments, independent of any that may be done by their affiliated issuer or elsewhere within the fund complex.
17.	The CP has been amended to include guidance on purchasing assets from a client outside the normal course of business. Can you help us understand what scenarios are intended to be captured with this guidance?	In our view, purchasing assets from a client outside the normal course of business raises inherent conflicts of interest which are almost always material. This can be particularly challenging, given the implicit level of trust that most clients have in their registered individual, that some clients may not understand that their representative may not be acting on behalf of the firm in such transactions, and the associated inherent compliance risks for the firm where representatives engage in transactions with clients. For example, a registrant should not purchase real property or other assets that have a significant value from a client. If, after evaluating the conflict of interest, a firm chooses to permit such transactions to occur between its representatives and clients, the requirement to address material conflicts of interest in the best interest of the client applies to these scenarios. The firm must

		implement policies, procedures and controls to demonstrate that it has addressed these material conflicts of interest in the best interest of the client, including an assessment of the effectiveness of the firm's policies, procedures, and controls to address these conflicts. Firms could consider the following controls: requirement that the client receive independent legal advice or professional advice about the transaction.
18.	Can you help us understand what regulators expect firms to do with the results of periodic due diligence on comparable non-proprietary products available in the market for firms that have a closed shelf and only offers proprietary products?	Firms who only trade in or recommend proprietary products are not *required* to perform a comparison between the proprietary products they make available to clients and other similar securities in the market under the Rule. However, performing periodic due diligence on comparable (non-proprietary) products in the market and evaluating whether the proprietary products are competitive with the alternatives available in the market has been included in the CP as an example of a control that firms could use to address the conflict of interest associated with offering only proprietary products. That is, being able to demonstrate that the firm's proprietary products are competitive with alternatives in the market would be one way that a firm can demonstrate that its product shelf development and client recommendations are based on the quality of the proprietary products it makes available to its clients. This example of a control is not meant to suggest that firms must use the information to change the products that they make available to clients (or perform a shelf optimization, as had been proposed under the 2016 Consultation Paper), although it may inform their analysis of whether or not the controls they have on this conflict of interest are sufficient to address the conflict in the best interests of clients.
19.	Can you help us understand the expected outcome of addressing conflicts of interest at the supervisory level for Producing Branch Managers?	The separation, or independence, of supervisory staff compensation encourages effective oversight of representative activities. We expect that the majority of the compensation of supervisory staff would <u>not</u> be tied to the revenue generation of representatives, the branch or the business line that the supervisory staff oversees. However, we recognize that in some situations, producing or non-producing Branch Managers may be compensated partly on the basis of branch or business line profitability. In these cases, we expect firms to assess the design of their compensation models, and ensure that the controls they have in place are sufficient to address, in the best interest of clients, these compensation-related conflicts at the supervisory level. Where there is a portion of supervisory compensation based on branch or business line profitability, we expect that other factors determining supervisory compensation are sufficient to outweigh any bias that supervisory staff may have towards profitability over the best interests of clients. We expect that controls such as multiple level supervision would also be in place, to ensure that there is sufficient oversight, by head office or an otherwise independent reviewer, of the supervisory process. We also expect that all

		compensating controls would be periodically tested to assess their effectiveness in ensuring that these supervisory conflicts have been addressed in the best interests of clients. In our view, the materiality of the conflict may depend on the percentage of compensation that is tied to branch/division sales. Registrants could consider the following additional examples of controls when considering how to address this conflict in the best interest of their clients: setting a low level of bonus compensation versus base salary; combined with strict measures that penalize non-compliance, e.g., if the bonus (and even salary) of supervisory staff is also tied to: (i) the branch and direct reports not receiving valid investor complaints (after independent investigation), and (ii) results from independent quality assurance calls to investors to assess compliance and sales practices.
20.	When carrying out the periodic due diligence on comparable non-proprietary products (such as investment funds) available in the market, is it acceptable for registrants to rely on information provided by the investment fund manager?	We have not prescribed documentation or information that should be used in different circumstances. Registrants may use whatever information they have determined to be reliable. In the case of public investment funds, registrants can rely on regulatory documents prepared and made public by the investment fund manager (e.g., prospectus, fund facts, financial statements). As stated in the CP, additional due diligence may be necessary where the registered firm identifies any issue during the review, for example, if the publicly available information is not sufficient to permit a meaningful assessment or where there are reasons to question the validity of the information. See also our response to Question 21.
21.	**Proprietary Products as Material Conflicts of Interests** Section 13.4 of the CP indicates that it is an inherent material conflict of interest for a registered firm to trade in, or recommend, proprietary products. Firms that do so must be able to demonstrate that they are addressing this conflict in the best interest of their clients. The CP recommends conducting periodic due diligence on comparable non-proprietary products available in the market and evaluating whether the proprietary products are competitive with the alternatives available in the market.	See our response to question 18 above. While not mandatory, this has been included in the CP as an example of a control that firms could use to address the conflict of interest associated with offering only proprietary products. We also refer you to the additional examples of controls included in the CP. The level of due diligence should be sufficient for registrants to be able to meaningfully assess how the proprietary products that they offer fit within the general competitive landscape. We recognize that there may be some challenges in obtaining specific information about comparable products offered by the firm's competitors, including where those products are offered on a prospectus-exempt basis. However, in our experience, most registrants and issuers have a general knowledge of the competitive space that they operate in, and are able to gather enough information to understand how they or their offerings compare with others in the space. If there are specific limitations to the information registrants can obtain, or necessary assumptions or caveats registrants have to make in their comparative analysis (for example, because competitive products are materially different), this should be documented.

	Please clarify what level of due diligence, if any, would be considered appropriate. In the case of products that are offered on a prospectus exempt basis, often there is limited publicly available information about the products and it can be difficult to conduct a comparison. Also, in the case of alternative products, they are not entirely comparable between managers. Also, how much due diligence is expected between non-proprietary products offered only on an incidental basis? (e.g., a registered firm mostly offers equity-based proprietary products to its clients but on an ancillary basis may recommend non-proprietary fixed income products for a portfolio – what level of due diligence on various available products would be considered appropriate, especially given that suitability must be determined on the basis of the client's overall circumstances?)	Disclosure of the conflict to clients, including the specific disclosure referenced, is not sufficient for a firm to show that it has addressed conflicts associated with offering only proprietary products in the best interest of its clients. Our expectation is that the firm has other controls in place, such as those suggested in CP guidance, to address the conflicts. The obligation is for firms to disclose the conflict to clients, and also to disclose how they have addressed the conflict in the best interest of clients through these other controls. Regarding alternative products, a comparison to assess how the firm's products fit within the competitive landscape is still possible, but in these circumstances, it may require certain assumptions or caveats to be made. Again, as above, any such assumptions or limitations should be documented. Firms operating under a proprietary model with a limited shelf are not required to include or recommend non-proprietary products on an ancillary or incidental basis, whether because of the suitability determination requirements or otherwise. However, if a firm chooses to offer a non-proprietary product on an ancillary or incidental basis to clients, the firm must meet all of its KYP requirements in respect of that product. We refer you to the KYP guidance for elements that should be considered when assessing securities. The firm should document its due diligence and, from a conflicts and suitability perspective, should also document why it has chosen to recommend a particular non-proprietary product over others.
22.	What is the difference between the requirement to address material conflicts of interest in the "best interest" of the client and determining that an investment action "puts the client's interest first" when making suitability determinations? For example, how do the requirements to address material conflicts of interest in the best interest of the client and to put the client's interest first when making suitability	The requirement to put the client's interest first is separate from the requirement to address material conflicts of interest in the best interest of the client. These requirements mean that the interests of the client are paramount and that a registered firm and its registered individuals must put the interests of their clients first, ahead of their own interests and any other competing considerations. In the suitability reforms, we specifically used the words "put the client's interest first" to signal to industry that the enhanced suitability requirement does not prescribe only one possible course of action when recommending products/services or making decisions for a client. These requirements apply to all registrants, including registrants that advise or deal only in proprietary products and registrants that have a limited shelf of products. <u>Conflicts of interest:</u> Registrants are first required to take reasonable steps to identify existing and reasonably foreseeable material conflicts of interest, and then address them in the best interest of the client. Any material conflict of interest that cannot be addressed

	determinations apply to registrants advising and/or dealing only in proprietary products? If a registrant has addressed all material conflicts of interest in the best interest of the client, does this mean that the registrant has also satisfied the "put the client's interest first" requirement in para. 13.3(1)(b)?	in the best interest of the client must be avoided. Addressing conflicts of interest in the best interest of the client is an ongoing registrant obligation. Again, this applies to all registrants, including those that advise or deal only in proprietary products, and those registrants that have a limited shelf of products. In the CP, we have provided examples of material conflicts of interest, including material conflicts of interest associated with registrants advising and/or dealing in proprietary products only, as well as guidance on the controls that registrants could consider putting in place to address them in the best interest of clients. Registrants, including those dealing in exempt products, should always be mindful of the KYP requirements. A registered firm is required as part of its KYP obligations to specifically assess the conflicts of interest, if any, inherent in any security the firm is considering making available to clients, arising for example from the compensation structure, related party issues or other factors, including an assessment of how any conflicts of interest are being addressed by the issuer. We also note that in some business models, there may be additional specific material conflicts of interest. For example, in the case of an EMD that sells only a single related issuer, the related issuer's current financial status and any need for investor capital to execute its business plan would have to be considered and addressed in the best interest of clients. <u>Suitability:</u> Registrants should have already complied with their broad obligations to address material conflicts in the best interest of clients (and to assess and understand securities they are making available to clients) before they consider taking any investment action for a client. Then, the registrant must make a suitability determination based on (i) the factors set out in paragraph 13.3(1)(a), and (ii) an overall assessment that the recommendation to the client or decision for the client that they have chosen to make is one that puts that client's interests first. Among other considerations, putting the client's interest first requires registered firms and each of their registered individuals to avoid being influenced to make a self-interested choice in the particular circumstances of any given investment action. Examples of factors that might have such an influence include sales commissions, targets for sales volume or assets under management, client retention, and relationships with issuers. If any of these material conflicts of interest are present, the firm must have policies and procedures for addressing them as discussed above. Where material conflicts are present, they must be considered before any investment action is taken. In that context, the test is whether the registrant has put the client's interest first. The obligation to put the client's interest first applies to all registrants when making a suitability determination. This includes circumstances where a registrant is choosing among multiple suitable options for a client (i.e., among multiple potential investment actions that meet the criteria in paragraph 13.3(1)(a)), and means that registrants must put the client's interest ahead of their own interests and any other competing considerations, such as a higher level of remuneration or other incentives, or other factors that might influence the registrant such as those listed above, and must exercise their professional judgement when opting for one recommendation or decision among other suitable options. It also includes circumstances where a registrant has a limited product shelf. In some instances, a registrant will have to decline to provide a product or service to a client in order to put the client's interest

		first. For example, an EMD with a limited shelf might be unable (i) to conclude that any of its offerings are suitable for a client and (ii) put the client's interest first after taking into account the client's concentration in one security, sector or industry, high risk securities, or illiquid exempt market securities, or the direct and indirect costs, fees, commissions, charges, and registrant compensation which may be associated with their products, including embedded costs paid by the issuer. Registrants must document the reasonable basis for their suitability determinations, including how they have met their obligation to put the client's interest first.
23.	**Conflicts of Interest Records** Section 13.4 of the CP indicates firms are expected to use their professional judgement when deciding how much detail to provide when maintaining records that demonstrate compliance with conflicts obligations. Could you please provide additional guidance on this point?	We refer to you the CP guidance in section 11.5, "Conflicts of Interest". In addition to stating that registrants should exercise their professional judgement to assess what level of detail needs to be documented in records in order for them to demonstrate that they have complied with their conflicts of interest obligations, the guidance states that as the materiality of a conflict increases, there should be greater detail in the records maintained to demonstrate compliance. The guidance also provides examples of material conflicts where we would expect to see more detailed documentation: sales practices, compensation arrangements, incentive practices, referral arrangements, the use of proprietary products and services, and product-shelf development conflicts. In addition, we refer you to the list of records required under paragraph 11.5(2)(q) of NI 31-103, which does not include the phrase to 'demonstrate compliance' but instead clearly requires a registrant to 'document'. Our expectation is that a complete record be maintained of all of the listed sales, compensation and incentive practices and arrangements. Please see the CP guidance in section 11.5 "Sales practices, compensation arrangements and incentive practices" for a description of what must be documented. It is the registrant's responsibility to determine whether a conflict is material and the materiality of a conflict will depend on the circumstances. Registrants must document the basis for these determinations. A firm's conflicts of interest documentation can be part of a firm's risk assessment/conflicts of interest assessment, and can include cross references to the firm's policies, procedures and controls. While we have not prescribed a specific format, we expect firms at a minimum to document their identification, review and analysis of conflicts of interest, their determination as to whether a conflict is material, and the controls used by the firm to ensure that material conflicts have been addressed in the client's best interest. We refer you to the list of practices and controls included in section 13.4 of the CP guidance "Examples of conflicts of interest and controls" for more detail on what is expected to be detailed in a firm's conflicts policies and procedures.
24.	**Dealing with Clients – Part 13** Section 13.1 exempts fund managers from section 13 in respect of its activities as an	Section 13.1 is not a new provision. Section 13.1 only exempts an investment fund manager in respect of its activities as an investment fund manager. Portfolio managers are subject to the requirements of Part 13, including the CFRs changes to conflicts of interest.

	investment fund manager. Please confirm that this exemption also intends to capture the activities of Portfolio Managers who are managing an investment fund.	
25.	**Contractual Arrangements** Investment services are offered to clients by contract. The contract outlines various terms and conditions, including the services the registered firm will provide to the client and the fees that the client will pay. Amendments to the services that are being provided, fee increases and terminating the relationship are examples of contractual changes that are generally addressed by notice to the client. We assume that this will continue to be acceptable.	Statutory, common and civil law standards of care and conduct will continue to apply to registrants, including the obligation for dealers and advisers to deal fairly, honestly and in good faith with their clients; and in some jurisdictions, registrants are subject to a statutory fiduciary duty when exercising discretionary authority (the common law generally imposes a fiduciary duty in these circumstances as well). The CFRs do not prescribe changes to the specific terms and conditions of contracts between registrants and their clients. It will be the responsibility of the registrant to determine whether any decisions affecting a client, including changing fees, are consistent with the enhanced requirements that the CFRs introduce relating to the disclosure of costs (including fees) and whether the service continues to be suitable for the client and puts the client's interest first. We also refer you to the CP guidance about the suitability determination of the account type.
26.	**Manner of disclosing conflicts of interest** Subsection 13.4(4) requires that "all material conflicts" be disclosed. Are registrants required to disclose all conflicts specifically (e.g., enumerated list) or is it acceptable to group them according to the nature of the conflict?	Material conflicts of interest are required to be disclosed under 13.4(4) where a "reasonable" client would expect to be informed of those conflicts. We do not want the conflicts disclosure to overwhelm clients, but also expect a level of specificity to help inform a client's decision when evaluating their relationship with the registrant. In some cases, it may make sense to group conflicts. We expect registrants to exercise their professional judgement when determining that grouping the conflicts will result in clients being able to more easily understand the disclosure.
27.	**Disclosure of avoided conflicts of interest** Under the CFRs, is client disclosure required for conflicts of interest that are avoided?	Under subsection 13.4(4), the requirement is to disclose all material conflicts of interest to a client whose interests are affected by the conflicts of interest if "a reasonable client would expect to be informed of those conflicts of interest".

		If a conflict has been avoided altogether, it is no longer likely to have enough of an impact on the client-registrant relationship to require its disclosure under 13.4(4). The registrant should exercise its professional judgment in determining whether information about an avoided conflict would be sufficiently meaningful that a reasonable client would expect to be informed of it. We recognize that there may be current industry practice to disclose some conflicts at a general level where they are avoided or prohibited (e.g., general disclosure included in Codes of Conduct). Under the CFRs, registrants are not prohibited from disclosing conflicts of interest that have been avoided or that are prohibited under SRO rules or by the CSA – registrants may choose to disclose these conflicts and the disclosure may be of some value to clients (e.g., where the disclosure describes controls around ensuring certain conflicts are avoided). The specific disclosure requirements set out in 13.4(5) would not apply where the firm has chosen to provide general conflicts disclosure to clients outside of what is required by subsection 13.4(4). We do not wish to discourage registrants from providing this type of disclosure but remind them that there is a balance between providing information and overwhelming the typical investor.
28.	**Dually registered individuals and conflicts of interest** Other licenses and designations may also require disclosure of individual conflicts of interest. There is a high risk a registered individual may not report a conflict to each entity or regulator/oversight body to which they have an obligation to report a conflict. However, securities regulators may actually receive disclosure through their numerous data sharing arrangements with other entities (OSC, FSRA, FP Canada to name a few) or receive third party data feeds. What is expected of registrants to meet their obligations? How should registrants comply with their obligations if conflicts are reported to an affiliated firm of the securities registered firm (e.g., the HR department of a financial	We remind registered firms that <u>they must take reasonable steps</u> to identify existing material conflicts of interest, and material conflicts of interest that are reasonably foreseeable. We remind registered individuals that under subsection 13.4.1(2), they are required to promptly report to their sponsoring firm any material conflict which arises between the registered individual and their client. The registered individual must not proceed with the activity in question until their sponsoring firm has given its consent to proceed. Under paragraph 13.4(1)(b) a registered firm must take reasonable steps to identify existing material conflicts of interest, and material conflicts of interest that are reasonably foreseeable, between each individual acting on the firm's behalf and the client. The registered firm must maintain records to demonstrate compliance with its conflicts of interest obligations. The registered firm must provide training to its registered individuals on compliance with securities legislation, including the conflicts of interest requirements. We refer you to the guidance in the CP under "Examples of conflicts of interest and controls" for some suggested practices. The obligation to identify and report existing material conflicts of interest and material conflicts of interest that are reasonably foreseeable is not nuanced or diminished by any memorandum of understanding or information sharing agreements between entities or regulators/oversight bodies.

	institution or the affiliated insurance compliance department)? How should registrants comply with their conflicts obligations where the securities registered firm's registered individuals are also licensed with another entity or regulator/oversight body (e.g., as mutual fund approved persons and as insurance agents)?	We remind registered firms that the conflicts of interest requirements apply to the registered firm. While reporting to an affiliated firm may be an additional control which forms part of the registered firm's conflicts of interest management framework, it is not sufficient to demonstrate the registered firm's compliance with the conflicts of interest requirements under the CFRs. The fact that a conflict of interest is reported to an affiliate does not relieve the registered firm from its obligation to know that information. For example, in the financial sector, while individuals may be employees of one entity in the group, they may be assigned to a corporate subsidiary. Therefore, the central HR group will likely have conflicts disclosures that must be disclosed to the registrant. In this case, we expect that the registrant will have a process in place to ensure that it has received all information from the corporate HR department for the individual registrants that are assigned to the firm registrant. Where the securities registered firm's registered individuals are also licensed with another entity or regulator/oversight body, these registered individuals are still required to comply with their conflicts obligations, including their obligation under subsection 13.4.1(2). The securities registered firm is also required to comply with all of its conflicts obligations. We expect all registered firms to exercise professional judgement when assessing whether they have obtained sufficient information in the circumstances to identify existing material conflicts of interest, and material conflicts of interest that are reasonably foreseeable, between each dually registered/licensed individual acting on the firm's behalf and the client. We expect that the registered firm's policies, procedures and controls already address the different regulatory regimes that their dually registered/licensed individuals are subject to. In our view, the registered firm should take reasonable steps to identify and ascertain any outside activities, including any outside business activities engaged in by the dually registered/licensed individuals. For example, the registered firm could implement the following controls: • annual questionnaires sent to dually registered/licensed individuals to ascertain their activities; • interviews of dually registered/licensed individuals; and • ongoing assessment of compensation received by dually registered/licensed individuals.
Referral Arrangements – s. 13.7		
29.	**Definition of referral fee** Section 13.7 states that a referral fee "means any benefit provided for the referral of a client to or from a registrant." It would be helpful if members understood the	For clarity and in order to be consistent with other provisions in securities legislation, the definition has been expanded to cover any monetary or non-monetary benefits provided for the referral. One of the objectives for this change was to capture referral arrangements that created conflicts even though the arrangement may not involve the "payment" of "compensation". For example, a mutual referral arrangement between two firms may be a form of

	rationale/objective for the definition change and what type of relationships it is trying to capture given that the definition has been expanded from the previous version in NI 31-103.	benefit that would be captured by this expanded definition, which may not have been captured by the more narrow definition of 'referral fee' currently in force.
30.	**Referral Arrangements** Registered firms must document all referral arrangements between the registered firm, its registered individuals, and another person or company, as well as all fees paid or received by the registered firm or its registered individuals pursuant to such arrangements. The CSA expect that the registered firm will also document its due diligence analysis of the parties to which it is referring clients in compliance with section 13.9. Under Part 13, Division 3 Referral Arrangements, and as part of a registered firm's responsibility under subsection 11.1(1), registered firms have a responsibility to monitor and supervise all of their referral arrangements to ensure that they comply with the requirements of NI 31-103 and other applicable securities laws and continue to comply for so long as the arrangement remains in place. This includes monitoring and supervising on an ongoing basis their own conduct and that of their registered representatives in connection with these referral arrangements, as well as taking reasonable steps to satisfy themselves that the other parties to the referral arrangements	Registered firms must conduct a due diligence analysis on all prospective referral parties, whether the party is registered or not. In our view, the due diligence must extend beyond simply confirming the registration status of the other party to the referral arrangement. We expect registered firms to exercise professional judgement when assessing whether they have obtained sufficient information in the circumstances to determine that making the referral is in the client's best interest. In our view, this determination should include a judicious assessment of any detrimental information obtained through the due diligence process. For example, registrants should take reasonable steps to consult publicly available databases, search engines and make inquiries of the other party (whether registered or not) to ascertain: • their status, including their registration or licensing status as applicable; • their financial health (e.g., bankruptcy or insolvency); • their professional qualifications and history, • whether they are or have been subject to any disciplinary actions, proceedings or any order resulting from disciplinary proceedings related to their professional activities under their governing body or similar organization; • whether they have been the subject of any investigation by any securities or financial industry regulator; • for an individual, whether they have been subject to any significant internal disciplinary measures at the firm they worked/work at related to their professional activities; • whether there are or have been any complaints, civil claims and/or arbitration notices filed against them related to their professional activities.

	(from which they are receiving referral fees or to which they are paying referral fees) are also complying with their obligations under the referral arrangements. The CSA expect this to include maintaining any necessary registrations and, where parties are not registered, complying with any limitations on their activities in connection with the referral arrangements. Registered firms must document their oversight of all such referral arrangements. Could you please provide additional guidance on the due diligence and monitoring and supervision that is expected?	We also expect that the registrant will maintain records of the due diligence conducted, which may include for example, obtaining certificates of compliance from the other party to the referral arrangement. For example, ongoing monitoring and supervision of the referral arrangement could include the following controls: • annual questionnaires sent to registrants receiving referral fees on the nature and extent of their involvement in referral arrangements; • interviews of registrants receiving referral fees during the branch review process; • ongoing assessment of compensation received by registrants under the referral arrangements; • conducting ongoing compliance calls to investors who have been referred to (or by) the firm to assess how the process is being conducted by each referral party; • requiring that unregistered referral agents that make referrals to a firm attend training on how to adequately conduct referrals; • requiring that unregistered referral agents that make referrals to a firm only use pre-approved marketing materials and social media content in relation to their referral business; and • assessing complaints and other information received in connection with referral arrangements to ensure compliance by all referral parties.
31.	**Conflicts related to referral arrangements – CP guidance under section 13.4.1** The guidance provides that "In making a referral, registered firms and individuals must be guided only by the client's interests. We therefore expect that a registrant will not make a client referral to a party solely because of the referral fee that they will receive from that party<ins>, or because the amount or duration of the referral fee that they will receive from the party may be</ins>	Paid referral arrangements are inherent conflicts of interest which, in our experience, are almost always material conflicts of interest, and must be addressed in the best interest of the client. Before a registrant refers a client, in exchange for a referral fee, to another party, the registrant must determine that making the referral is in the client's best interest. In making that determination, we expect registrants to consider the benefits to the client of making the particular referral <ins>over alternatives or at all</ins>. In our view, the obligation to address material conflicts of interest means that a registrant must assess whether the referral arrangement is in the client's best interest in the first place. Registered firms must conduct a due diligence analysis to assess options that could be made available to the client. This applies equally, whether the firm has referral arrangements in place with a single provider or multiple providers. See our response to question 30 for details about the due diligence we expect in respect of referral arrangements.

	greater than the amount or duration of the referral fee that they would receive from a competitor to that party. If a client pays more for the same, or substantially similar products or services as a result of a referral arrangement, we would not consider the inherent conflict of interest to have been addressed in the best interest of the client. This is also consistent with the registrant's obligation to deal fairly, honestly and in good faith with its clients." With respect to the underlined section, could you please confirm that this expectation would only apply when a registered firm has referral arrangements in place with multiple providers of the same or a similar product or service and therefore would have the ability to refer its clients to more than one provider of the product or service, with different types of referral fees being available.	Registrants should have written policies and procedures tailored to their business that • outline the process they have designed in respect of referral arrangements; and • describe how the registrant evaluates whether a referral is in the client's best interest. Registrants should provide training to registered individuals on the registrant's policies and procedures related to referral arrangements. They should also maintain adequate books and records to demonstrate the steps taken to assess whether referrals made were in their clients' best interest.
32.	If a client is referred to a registrant, can the registrant charge the client more than other clients receiving similar services?	In our view, where a client pays more for the same, or substantially similar, products or services as a result of a referral arrangement, this would be a material conflict of interest that the registrant is required to address in the best interest of the client. Where a client pays more for the same, or substantially similar, products or services offered by the registrant, and where the registrant concludes that it has addressed this material conflict in the client's best interest, we expect the registrant to demonstrate why the higher fees are in the client's best interest under the circumstances. Disclosure will not be sufficient to demonstrate that this material conflict of interest was addressed in the client's best interest. We will review these types of arrangements as part of our compliance reviews.
33.	**New! Added April 2022** The answer to question 32 states, in the context of referral arrangements, that when a client pays more for the same, or substantially	We recognize that a registered firm may charge some of its clients different amounts for the same, or substantially similar, products or services. Particularly where a client is charged more than other clients for the same or substantially similar products or services, there may be a material conflict of interest and/or a breach of the registrant's duty to treat clients fairly, honestly and in good faith. We will therefore include these types of arrangements in our compliance reviews. We will expect firms to demonstrate how any material conflict of interest has been addressed and how the standard of care has been met. Disclosure alone is not sufficient to

	similar, products and services when compared to other clients, this is a material conflict of interest that registrants must address in the best interest of the client. Please clarify how this concept applies to other situations, specifically: • when clients purchase the same or a similar security, but different spreads are applied to trades by the registrant or clients are otherwise charged different transaction charges (as defined in section 1.1) by the registrant; and • when clients open the same type of managed account, but are charged different operating charges (as defined in section 1.1) such as different management fees. How can registrants ensure they address this material conflict of interest in the best interest of each one of their clients?	demonstrate that a material conflict of interest has been addressed in the client's best interest, nor would disclosure alone be enough to demonstrate that the standard of care has been met. Firms should consider implementing targeted controls, such as by setting up standard fee schedules that are based on measurable criteria including the client's account size and type, types of products sold or managed, the nature of the client-registrant relationship, and the level of service provided to the client.
Misleading Communication – s. 13.18		
34.	**Business Titles** Subsection 13.18(2) states that a registrant cannot use a title if based ***partly or entirely*** on sales activity or revenue generation. How are firms able to differentiate seniority in terms of titles if sales activity or revenue numbers are not used. Many firms have policies and	Section 13.18 prohibits the use of titles if based partly or entirely on sales activity or revenue generation. Partly means plainly "to some degree, but not completely". We note that a registered individual's sales activity or revenue generation within a firm does not necessarily correspond to that individuals' seniority within the firm. An individual's sales activity or revenue generation could fluctuate from year to year – but the individual's seniority within the firm would not change.

	procedures to not incent negative behaviours around awards and recognition. Can the CSA expand on what "partly" means in this context?	For example, firms should be able to differentiate seniority in a title without tying it to a registered individual's sales activity or revenue generation. Seniority could be tied to the individual's relevant years of experience at the firm, qualifications and/or professional designation (e.g., CFA Charter holder).
35.	**Business Titles – Branch Managers** Subsection 13.18(2) states that a registered individual who interacts with clients must not use any of the following: (b) corporate officer title, unless their sponsoring firm has appointed that registered individual to that corporate office pursuant to applicable corporate law. Would subsection 13.18(2) prohibit branch managers from having Director or Vice-President titles? We understand the changes are primarily aimed at advisors. Branch Managers are in an IIROC supervisory position and usually have significant autonomous authority over local strategy execution and people management matters. However, they are usually not formally corporate officers.	Yes, the use of such titles would be prohibited. Unless the individual has been appointed by a board resolution to the corporate office (which we expect would include a defined substantive corporate responsibility), they are prohibited from using that title. There is no room for "an informal, non-specific corporate role". Such individuals could use their "branch manager" titles to the extent such titles accurately reflect the managerial responsibilities that have been assigned to them by the firm.
36.	**New! Added April 2022** **Can a registered individual use a corporate officer title when interacting with clients simply by being appointed as an officer by the firm?**	The requirements set out in s. 13.18 make it clear that simply granting a corporate title (typically done under a board resolution) without defined and substantive corporate responsibilities to certain individuals will not be acceptable. We believe appointments of this kind are inconsistent with the rule as the use of these titles could reasonably be expected to deceive or mislead the retail public as to the nature of the registered individual's relationship with the registered firm. When reviewing the corporate titles used by registered individuals, we will pay particular attention to the substance and nature of the relationship between a registered individual and the firm where a registered individual uses a corporate officer title in their dealings with clients. For example, we will assess whether the registered individual performs the functions and has been granted the

		responsibilities and powers typically associated with a corporate officer role, including, for example, whether the registered individual:
		
		• has been delegated the authority to act independently on behalf of the firm in a manner that is significantly different than a registered individual who has not been granted a corporate officer title;
		
		• has the ability to bind the firm in ways that are more significant than those that flow from the registerable activities conducted by the registered individual or registered individuals who have not been granted a corporate officer title;
		
		• is part of the "mind and management" of the firm, for example:
		
		  ○ is responsible for making significant decisions on behalf of the firm;
		
		  ○ is responsible for the overall direction and control of the firm's operations or financial affairs.

37.	**Updated April 2022** **Business Titles – Use with Permitted Clients** Subsection 13.18(2) states that a registered individual who interacts with clients must not use a corporate officer title, unless their sponsoring firm has appointed that registered individual to that corporate office pursuant to applicable corporate law. Using an informal Vice-President title is commonplace, and generally expected in an institutional environment. Given there appears to be some latitude for registered individuals who do not interact with clients, can the same be said for registered individuals who deal exclusively with permitted clients?	No. A registered individual who interacts with clients (including with permitted clients) is subject to paragraph 13.18(2)(b) and that individual is prohibited from using a corporate title such as "Vice-President ~~title~~" and "Director" and variations thereof unless their sponsoring firm has appointed them to that corporate office pursuant to applicable corporate law. A registrant may consider applying for exemptive relief from the prohibition in paragraph 13.18(2)(b)~~, and as applicable from paragraph 13.18(2)(a),~~ in respect of corporate titles currently used by its registered individuals who interact with non-individual permitted clients, where the use of ~~such~~ those corporate titles ~~(e.g., Director, Vice-President and variations thereof)~~ is not primarily tied to sales activity or revenue generation. The purpose of such relief is to accommodate certain current practices with regard to institutional clients pending the outcome of further work on titles that is being undertaken by securities regulators. Whether relief ~~from the rules applicable to the registrant~~ is appropriate will be case-specific and will reflect ~~the~~ a registrant's registration category. Staff would not support an application for exemptive relief ~~where~~to permit registered individuals ~~interact~~ to use corporate titles when interacting with retail clients, or prospective relief where a firm does not currently have institutional clients. In a small number of instances, relief has been expanded to include a *de minimus* number of accounts that the applicant has opened for non-individual related entities of its institutional clients where those entities do not themselves qualify as permitted clients because they fall short of the applicable financial tests. This expansion of the relief has been made on the basis that the individuals who make decisions on behalf of an institutional client's accounts also form the majority of the individuals who make decisions on behalf of each related entity's accounts. Staff would not support granting this relief in broader circumstances or where an applicant does not already have clients of this kind.

		IIROC has provided comparable relief under its rules. See also our responses to questions 35 and 36.
38.	Will the prohibition in subsection 13.18(2) apply to organizations when they provide services outside of Canada? For example, some Canadian institutional asset managers compete worldwide and would likely want to use titles that are both acceptable in practice and technically permissible under applicable securities laws in foreign jurisdictions.	The prohibition in subsection 13.18(2) applies to registrants regardless of the residency of their clients. See also our response to question 37.
39.	Certain advisors are permitted to incorporate and as a result are permitted to redirect commission payments to their personal corporation. Such individuals are corporate officers of their personal corporation and are allowed to use titles such as President. Can these individuals use these titles in their role as a registered individual of their sponsoring firm?	While we recognize that certain registered individuals are permitted to incorporate (generally to facilitate the redirection of commission payments to their personal corporation), a registered individual who interacts with clients is subject to subsection 13.18(2) and that individual is prohibited from using certain titles (including for example, President, Vice-President or Director) unless their sponsoring firm (i.e., the Dealer Member itself) has appointed them to that corporate office pursuant to applicable corporate law. A registered individual's corporate office with their personal corporation is not relevant to this determination, unless the registered individual's personal corporation is also the registered firm.
40.	**Misleading communications – dual registrations and level of due diligence by the registered firm** If an individual is dually registered (e.g., mutual fund and insurance) or holds themself out as having designations (e.g., CFP), does the registered firm have an obligation to track whether the individual's license/designation remains in good standing? For example, for a dually licensed insurance agent, whether	Registered firms must conduct due diligence on all of their registered individuals, including dually registered individuals, whether the dual registration is with an affiliated firm or not. In our view, the due diligence must extend beyond simply confirming the registration status/designation of the dually registered individual upfront. We remind registered firms that their registered individuals (including dually registered individuals) who interact with clients must only use a title or designation that has been approved by their registered firm. We expect registered firms to exercise professional judgement when assessing whether they have obtained sufficient information in the circumstances to determine that the dually registered individual does not hold themself out in a manner that could reasonably be

	carrier and MGA contracts are in place, and whether continuing education and errors and omissions insurance are up to date? To what extent must the registered firm validate that the non-securities license or the designation remains in good standing? For example, should the registered firm obtain attestations from such individuals, and/or conduct a periodic review of the oversight bodies' websites to evidence the individual is in good standing? Would this view change if the individual were licensed with an affiliated firm of the securities registered firm?	expected to deceive or mislead any person or company as to the individual's proficiency, experience or qualifications, and to approve any titles or designations used. In our view, this determination should include a judicious assessment of any detrimental information obtained through the due diligence process. As part of their due diligence process, registrants should take reasonable steps to consult publicly available databases including the oversight/licensing bodies' websites and search engines, and should make inquiries of the registered individual, to ascertain: • their status, including their registration or licensing status as applicable; • whether they are or have been subject to any disciplinary actions, proceedings or any order resulting from disciplinary proceedings related to their professional activities under their licensing body or similar organization; • whether they have been the subject of any investigation by their licensing body or similar organization; • whether there are or have been any complaints, civil claims and/or arbitration notices filed against them related to their professional activities. We also expect that the registrant will maintain records of the due diligence conducted, which may include for example, obtaining certificates of compliance/attestations from their registered individuals; and the use of annual questionnaires/certifications sent to their registered individuals.
41.	To what extent is it permissible for an individual who is generally not client-facing and is not involved in the client relationship to use a VP or Director title. As an example, there are individuals within an organization who do not have clients or manage client accounts that may be involved in presentations to clients or prospective clients. Would those individuals be permitted to use a VP or Director title?	Paragraph 13.18(2)(b) of the Client Focused Reforms prohibits a registered individual "who interacts with clients" from using a corporate officer title, unless their sponsoring firm has appointed that registered individual to that corporate office pursuant to applicable corporate law. In our view, (a) a "registered individual who interacts with clients" includes registered individuals who may be involved in presentations to clients or prospective clients, and (b) "corporate officer titles" includes VP and director titles. Therefore, a registered individual who interacts with a client will be prohibited from using a VP or director title unless the person has been officially appointed as a VP or director of the registrant.

42.	Does the prohibition in paragraph 13.18(2)(b) apply to titles such as “Director Sales” or “Director Client Relationships”?	Yes. The use of such qualifiers alongside the title of “Director” or “Vice-President” is not acceptable and such titles are prohibited pursuant to paragraph 13.18(2)(b) unless the sponsoring firm has appointed that registered individual to that corporate office pursuant to applicable corporate law. See also our response to question 37.
Relationship Disclosure Information (RDI) – s. 14.2		
43.	**Implementation Timeline re: RDI requirements for new and existing clients** What is the CSA’s expectation with respect to the implementation timeline for new clients and existing clients?	As provided under the blanket order issued on April 16, 2020, the RDI CFRs will now come into effect on December 31, 2021. We believe this extension, to a time which is six months after the implementation of the conflicts of interest CFRs and the same as the implementation of the rest of the CFRs, removes any practical obstacles to registrants’ ability to provide all of their clients with updated RDI. We expect that all new clients and existing clients would receive the updated RDI in line with the December 31, 2021 deadline. The CP explains that registrants have flexibility about the manner in which they are required to deliver information to a client pursuant to s. 14.2. For example, this information can be provided to a new client during the onboarding meeting, to an existing client when the registrant first interacts with the client after the implementation date (e.g., when the registrant makes a recommendation or decision for the client’s account or with fourth quarter reporting mailings). When providing the s. 14.2 disclosure to existing clients, registrants should take into account whether their existing clients have opted to receive correspondence electronically. Where a client has opted to receive correspondence electronically and to the extent feasible, we expect firms to provide such disclosure to the client by December 31, 2021. We also encourage registrants to assess the effectiveness of the disclosure they provide clients by considering behavioural economics principles and tactics to simplify the content of the disclosure, including the requirement to use plain language in order to mitigate the risk that clients may not fully understand the information provided by the firm. We remind registrants that in order to satisfy their obligations under section 14.2, registered individuals must spend sufficient time with clients as part of an in-person or telephone meeting, or other method that is consistent with their operations, to adequately explain the information that is delivered to them, including an explanation of the changes that were made to the RDI delivered to their clients.
44.	**Disclosure relating to conflicts of interest** Registrants are also required to disclose material conflicts of interest before opening	The disclosure pursuant to 13.4 cannot be delayed. The CSA Notice 31-357 – *Blanket Orders/Class Orders in respect of Certain Client Focused Reforms Provisions of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations* was clear on this point. We stated our expectation that when the conflicts of interest CFRs come into effect on June 30, 2021, registrants will be required to disclose material conflicts of interest to clients before opening an account or in a timely manner

	an account or in a timely matter after they are identified when the conflicts of interest requirements come into effect on June 30, 2021. Firms generally have processes to send relevant updates to existing clients annually, with most mailings being sent early in the year. There are substantial costs that are incurred for additional mailings.	after they are identified. Registrants may provide these disclosures separately from any other disclosures using stand-alone documents in any form, be it electronic or paper, that meet the plain language requirements in the conflicts of interest CFRs. To be more specific, registrants that are not required to be IIROC members are not required to include account opening conflict of interest disclosure in a prescribed RDI document. They are able to provide both of these disclosures separately from any other disclosures. The SROs will amend their member rules, policies and guidance to be uniform with the CFRs in all material respects, including harmonized implementation timelines.

45.	Does providing written notice prior to June 30, 2021 to each existing client informing the client of the CFRs mandated conflicts of interest disclosure and including a link to where the client can find the CFRs enhanced conflicts of interest disclosure meet the requirements under the CFRs?	Registrants will have to comply with the CFRs conflicts of interest requirements, including the CFRs mandated conflicts of interest disclosure, no later than June 30, 2021. As of that date, all **new** clients must receive the CFRs mandated conflicts of interest disclosure at account opening.
		
		For **existing** clients, registered firms can deliver (in paper or electronic format) either new conflicts of interest disclosures that will comprehensively replace those that were delivered in the past or, in the alternative, supplement existing conflicts of interest disclosures with updates that include the CFRs mandated conflicts of interest information.
		
		There are different ways registered firms can deliver their conflicts of interest disclosures to existing clients consistent with the June 30, 2021 deadline. Industry participants discussed the following three-step approach with the Committee which we think would be reasonable
		
		• **STEP 1** – include a prominent, plain language notice with the delivery of the client account statements for the quarter ended March 31, 2021 (or with any other client communication delivered on or before June 30, 2021), that
		    ○ describes the upcoming CFRs mandated conflicts of interest disclosure, including: (i) an overview discussion of conflicts of interest (ii) what is changing in terms of how conflicts will be addressed (e.g., explaining that under the CFRs requirements, material conflicts of interest must be addressed in the best interest of the client), and (iii) explaining why the disclosure is important for the client to read;
		
		    ○ describes where the client can find the CFRs enhanced conflicts of interest disclosure on the registered firm's website prior to, or on, June 30, 2021 and how and when it will be delivered to the client (paper or electronic delivery, as applicable);

		○ explains how the client can contact their registered firm/registered representative and also how they can exercise the option to receive communications electronically (if this option is available at the registered firm); • **STEP 2** – the CFRs mandated conflicts of interest disclosure is posted to the registered firm's website and each client that has opted for documents to be delivered electronically receives a digital notification granting the client with access to the disclosure through the registered firm's secure client portal on or before June 30, 2021; and • **STEP 3** – the CFRs mandated conflicts of interest disclosure is delivered in a timely manner with the delivery of the client account statements for the quarter ended June 30, 2021 by the registered firm to each client. We note that registered firms may adopt other methods to ensure timely compliance with the conflicts of interest disclosure requirement. Registered firms may provide the CFRs mandated conflicts of interest disclosure together with or separately from any other disclosures using integrated or stand-alone documents in any form, be it electronic or paper. We also encourage registrants to assess the effectiveness of the disclosure they provide clients by considering behavioural economics principles and tactics to simplify the content of the disclosure, including the requirement to use plain language in order to mitigate the risk that clients may not fully understand the information provided by the firm. We encourage registrants to spend sufficient time with clients to adequately explain the information that is delivered to them, including an explanation of the CFRs conflicts of interest requirements.
46.	**General description of fees** Section 14.2(2)(b)(ii) requires a statement of the investment fund management expense fees or other ongoing fees the client may incur. The RDI is typically provided at account opening which may be prior to a suitability determination. Consequently, it may not be clear what type of products will be suitable for the client. What is the CSA's expectation in terms of this disclosure? There is concern it could become very general and lengthy making it less useful to clients.	The purpose of RDI is to shape and confirm clients' expectations of the services and products they will receive through the registrant. Accordingly, the RDI requirements are tailored to provide general information at account opening, as compared to the more specific information that will be required when a particular trade is recommended to a client. When opening an account for a client, a registrant can usually be expected to know whether investment funds or other products or services with ongoing fees and expenses will be considered when choosing suitable investments for them. The requirement in subparagraph 14.2(2)(b)(ii) is not to provide the client with a list of all investment funds or other products or services with ongoing fees and expenses used by the firm and their corresponding fees and expenses. Rather, it is to inform clients who may be invested in such products or services whether those investments have ongoing fees and expenses. We believe this is very useful and important information for clients. Research consistently shows that a significant proportion of investors do not understand the fees and expenses associated with investment funds or other products or services, if they are aware of them at all. We therefore expect this disclosure to include an explanation in simple terms of the applicable fees and expenses.

		For example, in the case of fees and expenses associated with an investment fund, key topics that should be discussed in plain language include the following: • the fees and expenses are not charged directly to the client but are taken from the fund as a percentage of its total assets; • the fees and expenses will be deducted from the returns of the fund, and therefore will affect the client's returns on their investment for so long as he or she owns the fund; and • when the client gets information about the value of their investment in a fund, the fees and expenses of the fund have already been taken into consideration.
47.	In respect of a PM client, new opportunities (for example, a capital raise that results in new indirect fees) may arise that were not originally contemplated when the RDI was provided. Is it expected that, notwithstanding that the account is fully discretionary and that the PM has the obligation to act in the best interest of the client, the disclosure of any fees related to the new investment opportunity be provided to the client?	Clients must be given a clear understanding of what fees and charges they should expect. In the circumstances described in this question, the PM could consider whether the fee was <u>of a kind</u> contemplated in this client relationship and disclosed in the firm's RDI. If the fee <u>is not of a kind</u> contemplated in this client relationship, the PM should exercise their professional judgement to determine whether disclosure to the client in addition to the RDI already provided should be provided given the discretionary nature of the relationship.
48.	**Relationship Disclosure Information – Understanding Fees and Expenses** Paragraph 14.2(2)(o) requires a general explanation of the potential impact of ongoing fees the client may incur and any charges they may pay to the firm, including an explanation of their compounding effect over time. Given this requirement is with reference to the client's investment returns, rather than returns specific to any one security, a registrant must therefore explain the potential impacts with	There is a fine balance between providing enough information and the point at which the typical investor is overwhelmed. The cost disclosure requirements in Part 14 of NI 31-103 are designed on the basis that the client should receive information at a level of detail that is appropriate to the time at which it is delivered. It is important to note that the requirements for transaction charge disclosures in RDI are "a general description" of the types of transaction charges that <u>the</u> client might be required to pay. This means that types of fees that the firm does not currently use for clients like the individual receiving the RDI should be excluded. It also means that the details of the amounts relating to a specific security should not be included in RDI. If a decision to invest in a specific security is made at the time when the account is opened, the detailed security-specific pre-trade disclosure of charges requirement will apply. Product-specific disclosure documents can be used to meet pre-trade requirements.

	reference to a client's accounts at the firm. Could you please provide additional guidance on this point?	The requirement to disclose operating charges to the client is not qualified as a "general description" and is specific to what the firm might charge the client related to the account. This is because RDI is deliverable at account opening and the specific details about the cost of having the account are therefore relevant at that time. The requirement relating to the potential impact of fees and charges is for a "general description" but it is specific to the types of transaction charges and the actual operating charges (if any), as well as the investment fund management fees or other ongoing fees the client may incur in connection with a security or service, applicable to the client's account. The most evident impact is that investment returns will be reduced in proportion to the fees and charges. For all these reasons, firms will need to exercise professional judgement in drafting disclosures, carefully considering their own operating model with particular reference to the individual client, as well as the clearest way to communicate the required information. We do not think it would be appropriate for firms to provide generic summaries of the kinds of charges that are used in the industry or a sector of it. Whether a firm can use a general purpose RDI package for all of its clients will depend on the degree to which the services and products it offers to clients may vary. Given the wide variation in fee models and products and services offered to clients, this is one of the circumstances where registered firms should exercise their professional judgement as to the extent to which they can standardize disclosure, how client-specific it can be and how much detail is needed. For example, a firm with a simple AUM-based fee model could be much more specific and more readily use numerical examples than one that relies on a mix of transaction fees and trailing commissions paid on products that it sells to clients. We encourage firms to use graphics as well as text in order to make the information understandable to as many clients as possible.
49.	In a portfolio management firm where fees are based solely on the value of the account and there is an obligation to act in a fiduciary capacity on behalf of the client, is it necessary to provide the level of detail outlined in question 48 or, would it be sufficient to state that certain investments attract management fees outside of the portfolio management firm and that such fees are considered in making the investment decision?	To the extent that the client pays outside fees associated with the investment in these securities, in addition to the fees paid to the portfolio manager based on the client's AUM, the registrant should provide specific disclosure to the client. For example, information about investments in securities with outside fees should be disclosed to the client in their investment management agreement with the registrant. We expect all registrants to have robust policies, procedures and controls that provide reasonable assurance that they are complying with securities laws, including the requirement to address material conflicts of interest in the best interest of the client as well as statutory, common and civil law standards of care and conduct that apply to registrants (including the obligation for dealers and advisers to deal fairly, honestly and in good faith with their clients; and in some jurisdictions, a statutory fiduciary duty when registrants exercise discretionary authority (the common law generally imposes a fiduciary duty in these circumstances as well)) with regards to fees. Registrants should have appropriate procedures in place to allow them to identify and correct any non-compliance

		with securities law in a timely manner, including instances where the client pays their registrant a 'double' fee on a portion of their assets under management.
50.	Could you please clarify the registered firm's obligation pursuant to s. 14.2(2)(l) in light of the following CP guidance? "*Since firms have an ongoing obligation under subsection 13.2(4.1) to update KYC information, this means that a firm must provide a client with the KYC information it has collected at the time of account opening, and also whenever it has collected updated information.*"	It would be sufficient to send updated KYC information to clients, which we understand is industry best practice today. It is not necessary to re-send the rest of the RDI package most recently delivered to the client. (Note that for non-IIROC members, there is no requirement for the RDI delivery requirement to be met with a single document).
Other		
51.	**Pre-trade disclosure of charges - MERs** Section 14.2.1 is a new requirement to disclose whether there are any investment fund management expense fees or other ongoing fees that the client may incur in connection with the security. We assume that Fund Facts can be used to satisfy this requirement. What are the CSA's expectations of how that requirement should be evidenced? Is it a form that is completed? Is it sufficient to conduct a branch review?	Section 14.2.1 is not a new requirement. The CFR added disclosure of MERs or similar fees as paragraph (d) in this existing pre-trade disclosure requirement. The Companion Policy expressly states that the fund facts document may be used for these purposes. Expectations for the oversight of compliance with the requirements in section 14.2.1 do not change because of the addition of paragraph (d).
52.	In respect of the disclosure requirements set out in section 14.2.1, will an ETF Facts document prepared in accordance with the	Yes, an ETF Facts document may be used to meet the registrant's <u>pre-trade disclosure requirement</u> under section 14.2.1.

	requirements set out in NI 41-101 be acceptable?	
53.	Will the CSA issue guidance or additional FAQs to assist registrants to adequately prepare and start implementing appropriate changes to their policies, procedures and control systems?	We may issue CSA guidance to further assist registrants in implementing appropriate changes to their policies, procedures and controls systems. At this time, we have not determined if/when such guidance would be issued. We remind firms that they should not wait until additional guidance is issued to complete their review of their policies, procedures and controls and determine what changes may be necessary to reflect the requirements in the CFRs, including changes to their training programs for staff.
Suitability		
54.	Where an adviser offers a hybrid service, clients will mostly be accessing services through a robo-adviser but can be assisted by a registered individual if needed. In the latter case, the client is not really assigned to a specific individual but rather a group of registered individuals. What is the CSA's expectation in such case as the CP is silent on this specific aspect of client servicing?	A registrant's obligations under paragraph 13.3(2)(a) are triggered "after any of the following events" including "a registered individual is designated as responsible for the client's account". It is often the case that online advisers will not have a registered individual assigned to a specific client's account. In that operating model, any one or more of the registered individuals at the firm or in a team at the firm might undertake any or all of the KYC, suitability determinations, client communications etc. for any given client. No single individual or group is assigned exclusive responsibility for the client. In such cases, the requirement to undertake a suitability review under paragraph 13.3(2)(a) would not be triggered simply because a new registered individual joined the firm or team, notwithstanding that the individual may at some point undertake registerable activity for the client. It is a common practice for registered firms, although not necessarily online advisers, to have teams of registered individuals specifically assigned to individual clients' accounts. In this operating model, responsibility for the client is shared among team members – no one individual is designated as responsible for the client's account. Determining whether a change in the team's membership triggers the requirement to review the client's account will require an exercise of professional judgement. A change of one registered individual on the team will not necessarily trigger a suitability review as long as there is continuity with respect to the remaining members. However, the roles and responsibilities of the members of the team, to the extent they differ, must be taken into consideration. For example, if there is a team leader who approves the recommendations of the other team members and that individual changes, it is likely that a review would be appropriate on the basis that that individual is effectively designated as having responsibility for the client's account. We note that the other suitability review criteria in subsection 13.3(2), including periodic KYC reviews, will apply regardless of whether a registered firm uses any form of a team operating model.

55.	What are the expectations of an EMD that only sells funds to institutional clients? Specifically, what are the suitability expectations in situations where the client is a non-individual non-permitted client that cannot waive the suitability requirement? There are a number of non-individual non-permitted clients (e.g., health and welfare trusts (distinct entities under the *Income Tax Act* (Canada)); unions and union-related benefit plans; multi-employer benefit plans; some foundations and registered charities; some overflow pension accounts (associated with pension plans, but not pension plans themselves); supplemental employee retirement plans; disability plans; First Nations trust vehicles (i.e., for government monies); and retirement compensation arrangements. CP 31-103 indicates that a portfolio approach to suitability is required and that the registrant must assess concentration and liquidity across the portfolio. In many cases, these types of clients do not share information about their entire portfolio with one registrant and have assets held outside the firm.	If a client does not qualify as a non-individual permitted client, suitability cannot be waived. The EMD must therefore undertake a suitability determination for the client. However, a client's sophistication, reflected in its investment knowledge and other KYC information informs a registrant's suitability determination. Certain non-individual non-permitted clients may have a high degree of sophistication and may be in a position to make a valid assessment of their own investment needs when seeking an EMD to provide them with particular funds. However, this cannot simply be assumed. The EMD should make reasonable enquiries on which to base a professional judgement about how much the client's own assessment of its investment needs should factor into the EMD's suitability determination for that client. We recognize that clients will not always be prepared to provide all of the information needed for a comprehensive suitability determination, particularly in the context described in the question. In such cases, we would expect the EMD to document its efforts to obtain appropriate KYC information and the reasonable basis for its determination that, in the circumstances, it had sufficient information to discharge its suitability determination obligation. This may be easier to demonstrate in the case of an institutional-type client that is highly sophisticated, than in the case of individual clients. Concerning concentration and liquidity across accounts with other registrants, we refer you to the guidance provided in response to question 70, as further informed by our responses to specific scenarios outlined in questions 71 to 78.
56.	For the purposes of making a suitability determination, where a firm is a "captive dealer" and sells only proprietary products, does the registered individual have to consider third party products when	A registrant is only required to consider a reasonable range of alternative actions <ins>available to the registrant through the registered firm.</ins> Where a firm sells only proprietary products, the registered individual need only consider alternatives that are available to that registered individual through the firm. The CP guidance on suitability recognizes that what constitutes a reasonable range of

	considering a "reasonable range of alternative actions" as required by subparagraph 13.3(1)(a)(v)? How does the registrant comply with s. 13.3(1)(b) if there is only one suitable recommendation?	alternative recommendations for a client will depend upon the circumstances, including the securities offered by the firm to the client, the degree of skill and proficiency of the registered individual and the client's particular circumstances. Where a firm sells only a single proprietary product, then no further analysis of alternative recommendations needs to be done pursuant to subparagraph 13.3(1)(a)(v) by the registered individual. However, the firm and registered individual must be certain that the product is suitable for the client and puts the client's interest first. If these criteria cannot be met for a particular client, the firm and registered individual must decline to provide the product to the client. See our response to question 22. We note that under the relationship disclosure requirements, the firm must clearly disclose to clients the limits associated with the products the clients will be offered, including whether the firm will exclusively offer proprietary products to clients. Where a firm offers only a single proprietary product, a firm must ensure clients understand that their product choice will be limited to that single proprietary product. We also note that under section 13.18, registrants may not hold themselves out in a manner that could reasonably be expected to deceive or mislead any person as to the products or services provided, or to be provided, by the registrant, among other things. Registered firms and individuals must be transparent with clients about the products and services that will be available to them. We also remind registrants that the conflicts of interest and KYP requirements apply to this scenario. A registrant is required to provide the client with clear disclosure that, for example, the registrant will be selling only related products or a single product (securities issued by the registrant's affiliated issuer). The registrant must also take other steps to address, in the best interest of clients, the conflict of interest posed by selling related products. In addition, it cannot rely on the issuer or an affiliate to meet its KYP obligations. Registrants should look to the CP for examples of the types of controls that they should put in place.
57.	**The potential and actual impact of costs on the client's return on investment** Subparagraph 13.3(1)(a)(iv) requires a registrant to determine the potential and actual impact of costs on a clients' return on investment. A registrant may not be privy to all arrangements the client will enter into in connection with the investment, such as trustee arrangements which are negotiated directly between the client and the trustee. These types of costs are typically not	So that they can discharge their obligations under subparagraph 13.3(1)(a)(iv), and also their KYP obligations under s.13.2.1, we expect registrants to conduct due diligence, including reasonable inquiries of the issuer of the securities, in respect of all direct and indirect costs, fees, commission and charges, including trailing commissions and any other kinds of direct and indirect registrant compensation which may be associated with a client purchasing and holding the issuer's securities. Registrants are not expected to investigate <u>specific</u> fees and other costs stemming from the client's private contractual arrangements, including trustee or custodial arrangements, <u>if</u> the registrant had no involvement in structuring them. In such cases, we would expect the registrant to have a general understanding of these costs and to discuss them in general terms. If a registrant was involved in structuring such arrangements, the associated costs must be disclosed to the client. However, if there are specific fees or other costs that are unique to the security offering (i.e., they are a feature of the offering) then we expect the registrant to investigate, assess and discuss these with the client.

	disclosed in the offering memorandum or other offering document used in connection with the investment. The words "indirect costs" seem broad enough to include third party fees like the trustee fees described above. Does the CSA expect a registrant to investigate fees and other costs stemming from the client's private contractual arrangements in discharging its obligation under s. 13.3(1)(a)(iv)? If so, how will the registrant satisfy its obligation if this information isn't made available?	
58.	**The potential and actual impact of costs on the client's return on investment** When considering the potential and actual impact of costs on a client's return on investment as a factor when making a suitability determination, as is required under subparagraph 13.3(1)(a)(iv), what calculations or assumptions should a registrant make about the rate of return? Is it sufficient to rely on a potential return referenced by the issuer in the offering memorandum or other offering document in connection with the investment or must the registrant do more?	The requirement in subparagraph 13.3(1)(a)(iv) relates to costs as a factor in making suitability determinations. The CP provides guidance as to what is included in "costs" in this context. It is necessary to consider costs because investments are made with the expectation of a return, and returns are partially dependent on costs. When completing KYP, registrants must take reasonable steps to assess and understand the securities they are making available to clients. This requirement includes considering the impact of all direct and indirect costs which may be associated with a product, including embedded costs paid by the issuer. In this regard, it is not appropriate for registrants, including EMDs, to rely solely on forward looking information about the issuer's potential returns that is provided in the issuer's offering documents. Registrants, including EMDs, should perform their own assessment of the potential and actual impact of costs on the client's return on investment when making a suitability determination. However, a registrant is not necessarily required to make a detailed calculation of projected returns when assessing the impact of costs. If an investment under consideration does not have a fixed rate of return, a registrant should exercise its professional judgment as to how specific the registrant needs to be in estimating a rate of return, or if it is necessary to do so at all. For example, if two mutual funds are under consideration to fill the same role in a client's portfolio, their rates of return might be assumed to be similar and if so, need not be estimated for these purposes because if one has a higher MER than the other, its net return will be the lower of the two alternatives. Note that we do not consider this to be a requirement to pick the lowest priced investment. There are several factors that must be taken into consideration along with cost when making a suitability determination.

59.	**Reasonable range of alternatives** Is a captive dealer required under subparagraph 13.3(1)(a)(v) to consider third party products among its alternative actions? Where an EMD offers a "shelf" of third party products, is the requirement under subparagraph 13.3(1)(a)(v) satisfied by comparing among products available on the shelf, or must the EMD include comparison to exempt securities not currently on the shelf? In addition, is an EMD required to consider public market securities among its alternative actions on the basis that an EMD technically can trade in the securities of reporting issuers if the trade can be made in proper reliance on a prospectus exemption? We note that there is no readily available database to find alternative exempt market products for comparison to the exempt market products offered by an EMD, and such investigation (and subsequent review) of exempt market products would require a tremendous amount of time, money and effort.	As noted in our response to question 56, under subparagraph 13.3(1)(a)(v), registrants are not required to complete an analysis of comparable products that are not offered by the registrant as part of its suitability determination. Where an EMD offers a "shelf" of third party products, the requirement under subparagraph 13.3(1)(a)(v) can be satisfied by considering the comparable alternatives included on the shelf. Where an EMD's business model contemplates dealing in securities of certain reporting issuers pursuant to prospectus exemptions, then we would expect that the registrant's consideration of a reasonable range of alternatives would include a consideration of the securities of the reporting issuers which are available to the client through the registered firm. We note that where an EMD offers related or proprietary products (whether exclusively or in addition to third party products), it must have controls in place to ensure that this material conflict of interest is addressed in the best interest of its clients. Performing periodic due diligence on comparable non-proprietary products in the market and evaluating whether the proprietary products are competitive with the alternatives available in the market has been included in the CP as an example of a control that firms could use to address the conflict of interest associated with offering only proprietary products. Please see our responses to questions 18, 20 and 21 on this issue.
60.	**Reassessing suitability** Subsection 13.3(2) requires a registrant to review the suitability determination made in subsection 13.3(1) based on events that occur after the original suitability assessment is made. The registered individual is then	As a preliminary comment, we note that the requirement in subsection13.3(2) assumes the client continues to maintain an account containing a portfolio of securities with the registrant, and we recognize that it is often the case that when an exempt security is sold to a client by an exempt market dealer, there may be few if any other securities in the account and after a period of time, there is no ongoing client-registrant relationship. In such circumstances, the requirement to reassess suitability with respect to a client's account would not be triggered.

	required to take reasonable steps within a reasonable time, with the inference being that such steps will be directed at rectifying what has become an unsuitable investment. In the CP under the heading "Reassessing Suitability", the CSA acknowledge that there is often little or nothing that the registrant can do when the investment is in exempt securities and the securities in question are substantially illiquid or have significant constraints on any redemption rights of the investor. Where there is a specific reassessment trigger (e.g., a sudden liquidity requirement of the client or an impairment event of the issuer), do the CSA expect the registrant to do anything more than discuss the constraints with the client and take this new situation into consideration when making future recommendations for the client?	When the requirement to reassess suitability is triggered, we expect a registrant to complete a suitability reassessment as set out in subsection 13.3(2).In the circumstances described in the question, the "reasonable steps" the registrant is required to take may involve exploring the possibility of redeeming the investment and ultimately determining that a redemption would be not suitable and would not put the client's interest first under the circumstances. For example, the registrant might determine that recommending a redemption would result in liquidating the securities position at a discount that would be detrimental to the client's interests. We expect the registrant to document its analyses and discussions with clients, and the resulting recommendations. And, as noted in the CP, when a client's account contains illiquid securities that have no redemption features, as is the case with many of the securities distributed by exempt market dealers, we recognize that the extent of the reassessment of the suitability determination may be limited due to the illiquid nature of the securities. However, we expect that the registrant will take this fact into account when making future recommendations for the client, including any additional investments.
61.	**New! Added April 2022** The answer to question 60 states that there are instances when EMDs do not have an ongoing relationship with their clients after the trade – in such cases, as there is no "client account" with the EMD, the EMD does not have a suitability re-assessment obligation. However, it is not clear when there is a transactional relationship versus an ongoing relationship and what criteria should be applied to determine this. In this regard, CSA Staff Notice 31-336 and Appendix F of the Companion Policy to NI 31-103 discuss criteria for determining the existence of an	The CFRs enhance registrant conduct requirements, they do not change the analysis of whether a client relationship is transactional or ongoing. The criteria for determining a transactional versus ongoing relationship set out in CSA Staff Notice 31-336 and the guidance under Appendix F of the Companion Policy remains applicable under the CFRs. As noted in Appendix F, "A sole EMD should consider carefully whether it is in an ongoing relationship before concluding that any of the client statement requirements do not apply to it".

	ongoing versus a transactional client-registrant relationship, but it is not clear if or how this guidance applies in the context of the CFRs. Please clarify what criteria should be used to determine the existence of a transactional relationship and that there is no "client account" with the EMD.	
62.	**New! Added April 2022** The answer to question 60 above states that the requirement to reassess suitability with respect to a client's account would not be triggered when there is no ongoing client-registrant relationship for EMDs. However, it is unclear how the KYC update requirements in subsection 13.2(4) are applicable to EMDs when there is a transactional client-registrant relationship. More specifically, what are EMDs required to do if they become aware of a significant change in the client's KYC information after a trade has been completed?	As stated in Appendix F of the Companion Policy to NI 31-103, an "EMD always has a client at the time of the transaction". The further analysis concerns the determination whether the EMD continues in an ongoing relationship with the client or that transaction was the whole of the relationship. In the later case, the EMD has no client after the transaction. From this it follows that in circumstances after an exempt security is sold to a client and there is no ongoing client-registrant relationship, the requirement to keep KYC information current would not be triggered.
63.	**New! Added April 2022** The answer to question 60 states that the requirement to reassess suitability with respect to a client's account would not be triggered when there is no ongoing client-registrant relationship for EMDs. However, it is unclear how the KYP monitoring requirements in section 13.2.1 are applicable to EMDs when there is a transactional client-registrant relationship and the product	As outlined in the Companion Policy guidance to NI 31-103, we expect that a registrant will take any significant changes in the securities held by the client into account when making future recommendations for the client, including any additional investments. However, in circumstances after an exempt security is sold to a client in a transactional relationship, the requirement to reassess suitability with respect to a client's account would not be triggered after there ceases to be a client relationship. See also our responses to questions 8, 60 and 61.

	continues to be approved to be made available to other clients. More specifically, as the EMD continues to monitor the product after the sale to a client, the EMD may become aware of a significant change in the security. In such cases, is the EMD required to notify clients who have previously purchased the security of significant changes in such security and would the suitability reassessment requirement in paragraph 13.3(2)(b) apply when there is a transactional client-registrant relationship?	
64.	**Reassessing suitability** What does the CSA expect a registrant to do when conducting a suitability reassessment of a client account brought to the firm by a transferring dealing representative where an investment in exempt securities in the transferred account is determined to be unsuitable and the constraints described above apply to limit rectification?	See our response to question 60 – the same considerations apply when the registrant is assessing the suitability of securities subject to certain constraints when they are transferred into the firm.
65.	**subsection 13.3(2.1) Dealing with client instructions (unsolicited orders)** Can a registered individual get an explicit acknowledgement in writing from the client in respect of an unsolicited order that the investment will not be considered to be part of the account, will not be part of any suitability assessment and could negatively impact performance and returns (i.e., a	All securities in a client's account are subject to the registrant's obligation to make a suitability determination, including the periodic suitability determinations required under subsection 13.3(2), which, in turn, require the registrant to know the product. This includes securities in a client's account resulting from an unsolicited order or "client directed trade", as well as securities that are transferred in kind into a client's account. There is no provision for a waiver. Registrants cannot comply with their obligations by simply getting an explicit acknowledgement in writing from the client in respect of an unsolicited order. Regarding the specific KYP obligations, firms are not required to approve securities that are transferred in or that are held as a result of a client directed trade if they do not otherwise make those securities available to clients. However, the CP clarifies that registrants must take reasonable steps to assess and understand securities that are the result of a client directed trade, or that are transferred into the firm from another registrant, within a reasonable time after the transfer or trade. This applies even if the firm does not otherwise

	liability disclaimer in respect of the investment and its impact)? What are the registrant's KYP obligations when dealing with client instructions (unsolicited orders) in respect of securities that the firm does not market, recommend or otherwise make available to clients, and about which the registered individual has only general knowledge?	make those securities available to clients. Note also that when making the required periodic suitability determination under subsection 13.3(2) noted above, registered individuals are required to have an understanding of all securities held in a client's account, including those that are held as a result of a transfer in or a client directed trade. We recognize that the depth of the understanding required under the KYP obligation may vary, in the context of securities that are the subject of a client directed trade or a transfer in, depending on the nature of the securities, the client's circumstances and investment objectives, and the relationship between the client and the registrant. Registrants should use their professional judgement in determining the reasonable steps that are necessary to assess and understand those securities. They may conclude that those steps may be less extensive than they are in the case of other trades. For example, if after determining that it would put the client's interest first, they are holding the securities simply to time their liquidation, the depth of knowledge required may not be as extensive.
66.	**subsection 13.3 (2.1) Dealing with client instructions (unsolicited orders)** What are the regulators' expectations with respect to unsolicited orders (purchases and redemptions)? What if the unsolicited order is made by a "vulnerable client"? How do you reconcile the obligations set out in subsection 13.3(2.1) with the obligations related to temporary holds set out in section 13.19?	A registrant has no obligation to accept a client order or instruction that, in the registrant's view, is not suitable and does not put the client's interest first. This applies to both unsolicited purchase and redemption orders requested by a client. In our view, marking the order as unsolicited is not sufficient. Instead, the registrant must take the measures set out in subsection 13.3(2.1) and advise the client in a timely manner against proceeding. Specifically, the registrant must recommend to the client an alternative action that satisfies the requirements of subsection 13.3(1). If the client does not choose to follow the registrant's recommended alternative action, then the registrant can proceed with the original unsolicited client order or instruction. Any advice given by the registrant should be documented if the client declines to follow the registrant's recommendation. The registrant must also receive recorded confirmation of the client's instructions to proceed with the action despite the determination by the registrant that the action will not satisfy the requirements of subsection 13.3(1). Firms must maintain records for measures taken in respect of client instructions referred to in subsection 13.3(2.1). The intent of section 13.19 is to clarify that if a registered firm reasonably believes that financial exploitation of a vulnerable client has occurred, is occurring, has been attempted or will be attempted, or that a client lacks mental capacity to make decisions involving financial matters, there is nothing in securities legislation that prevents the firm or its registered individuals from placing a temporary hold that they are otherwise legally entitled to place. Section 13.19 also prescribes requirements on how temporary holds in these circumstances must be placed. A temporary hold contemplated under section 13.19 is not intended to be available where a registrant receives a client order or instruction that, in the registrant's view, is not suitable and does not put the client's interest first and the registered firm does not have reasonable belief of financial exploitation of a vulnerable client, or a lack of mental capacity of a client to make decisions involving financial matters. A client may provide an instruction to take an investment action which would not, in the registrant's view, meet the criteria for suitability determination and which may otherwise be considered a poor financial decision; however, these facts alone do not necessarily mean that financial exploitation of a vulnerable client has occurred, is occurring, has been attempted or will be attempted, or that the client lacks mental capacity to make decisions involving financial matters. If a

		registered firm has reasonable belief of financial exploitation of a vulnerable client, or a lack of mental capacity of a client to make decisions involving financial matters, the firm may decide to place a temporary hold pursuant to s. 13.19. If the registered firm has placed a temporary hold pursuant to section 13.19 but no longer has a reasonable belief that financial exploitation of a vulnerable client has occurred, is occurring, has been attempted or will be attempted, or no longer has a reasonable belief that their client does not have the mental capacity to make decisions involving financial matters, the temporary hold must end. A firm may also decide to end the temporary hold for other reasons, such as if it decides to accept the client instructions with respect to the transaction, withdrawal or transfer, or alternatively, decides not to accept the client's instructions. If ending the temporary hold would result in an investment action that requires a suitability determination, such a determination will be required. In the circumstance where the investment action does not, in the registrant's view, meet the criteria for a suitability determination, the registrant must comply with the requirements set out in subsection 13.3(2.1).
67.	For additional guidance about the portfolio approach to concentration and liquidity factors in suitability determinations under the CFRs, we refer you to the guidance provided in response to question 70, as further informed by our responses to specific scenarios outlined in questions 71 to 78.	
General questions		
68.	Is there a comprehensive list of guidance/staff notices that will be rescinded or revised in relation to the CFRs? More specifically, IIROC and the MFDA have existing guidance on personal financial dealings (powers of attorney and control of client assets). Does either SRO intend to materially change their existing guidance?	Some of the CFRs impose new requirements, while others codify best practices set out in existing CSA and SRO guidance. Where there is an inconsistency between language included in earlier CSA guidance and the CFRs, the CFRs – to the extent that they impose requirements or set out more current guidance – will prevail. The CSA proposes to review earlier guidance and may rescind or revise it at a later stage. The MFDA will be revising all guidance, including guidance on personal financial dealings contained in MSN-0047 (Personal Financial Dealings with Clients): non-substantive, conforming changes to this Notice will be proposed, which will track revised wording and Rule references adopted under MFDA Rules. Currently it is not anticipated that there will be any changes to MSN-0031 (Control or Authority over the Financial Affairs of a Client). IIROC will be issuing new and revised guidance where necessary. Any guidance notes which the new guidance replaces will be rescinded. Currently, it is not anticipated that new guidance on personal financial dealings will be issued. The Committee is available to discuss and provide additional guidance in respect of any questions or inconsistencies raised by earlier guidance issued by the CSA.

69.	Consider whether CSA Staff Notice 31-334 – *CSA Review of Relationship Disclosure Practices* dated July 18, 2013 will continue to apply when CFRs comes into effect.	See our response to question 68. We intend to undertake similar reviews of registrant practices, including RDI, to assess compliance with the CFRs after their implementation and will provide updated guidance based on our findings.

70. What does a portfolio approach to concentration and liquidity factors in suitability determinations under the CFRs mean?

Under the CFRs, the factors that a registrant must take into consideration when making a suitability determination are listed in paragraph 13.3(1)(a) and include the enhanced KYC information collected in accordance with section 13.2. One of the factors that must be considered under paragraph 13.3(1)(a) is the impact of an investment action on the client's account, including a consideration of the concentration of securities within the account and the liquidity of those securities.

The CFRs also introduce a requirement under paragraph 13.3(1)(b) that an action subject to a suitability determination must put the client's interest first. As noted in the Companion Policy, to meet the criteria for a suitability determination under section 13.3, suitability cannot be determined only on a trade-by-trade basis but must be determined on the basis of the client's overall circumstances, given the relationship between the client and the registrant, and the securities and services offered by the registrant. The Companion Policy also states that where a client has multiple investment accounts with the registrant, the registrant must take into consideration whether a recommendation or decision for one account would materially affect the concentration and liquidity of the client's investments across all their accounts held with the firm. It also notes the CSA's expectation that registrants determine appropriate concentration thresholds for their clients.

The registrant's assessment of the client-registrant relationship at the account opening stage should reflect the KYC information gathered from the client and the client's expectations (keeping in mind that the registrant is generally responsible for shaping the client's expectations by the nature of the services and products offered and the representations made to the client). For example, depending on the nature of the client-registrant relationship and the services and products offered, it may be appropriate for some securities in a client's accounts at the firm to be excluded or discounted when assessing liquidity or concentration levels as factors when making suitability determinations for the client going forward. That assessment must be consistent with the client's expectations and includes the exercise of professional judgment by the registrant in determining that the client has a level of investment knowledge sufficient to support the conclusion that the client understands, and does not need, the benefit of having those factors considered across all of their accounts at the firm. In such cases, the registrant should (i) disclose in writing to the client that liquidity or concentration level factors across accounts will not be considered by the registrant in the scope of suitability determinations that the client will receive and (ii) document the basis upon which the registrant reached that conclusion. It may also be advisable to include the client's express acknowledgment of their expectations in this regard.

<u>Accounts outside the firm</u>. Where a client has relationships with multiple registered firms, none of them are expected to integrate their investment strategy with those of the others, nor are they expected to do a real time suitability analysis on the client's investments held at the other firms.

There are circumstances where a registrant may need to enquire about investments the client holds outside of the registrant to have a better understanding of a client's financial circumstances to sufficiently support its suitability determination. However, we also recognize that information about a client's other investments will not always be available to the registrant. A client may not wish to share that information. This may be the case, for example, where a client has sought the services of the registrant for the purpose of making a single investment. For more about handling situations where complete information may not be available, see our response to question 2.

However, where a client provides information about their holdings elsewhere through the KYC process, a registrant should use this information to gain an understanding of the client's financial circumstances and factor that information into its determination of appropriate concentration and liquidity thresholds for a client.

In addition, groups of related registrants offering different services to the same clients should be able to clearly explain to clients the scope of their suitability determinations.

Accounts of the same client within the firm. As noted above, the Companion Policy states that where a client has multiple accounts with a registrant, the registrant must take into account whether a recommendation or decision for one account would materially affect the concentration and liquidity of the client's investments across all of their accounts held with the firm. This assessment will normally be done with reference to pre-set thresholds and should therefore not be unduly burdensome. Guidance is also provided with respect to the setting of concentration and liquidity thresholds for clients. In some circumstances, thresholds could (i) exclude some accounts, or (ii) be set at different levels between accounts. The professional judgement considerations of the registrant would apply to any such determination, particularly as concerns client expectations.

We set out in the table below our views on how the concentration and liquidity factors can be addressed in some of the situations involving multiple accounts of the same client within a registered firm that have been presented in questions that we have received to date. We stress that these are a variety of special cases distinct from the typical relationship between registrant and a retail investor with a full-service account. Such investors rely heavily on guidance from their registered representatives and often will be unsophisticated in financial matters. A registrant should make a careful assessment of all of a retail investor's KYC information, within the context of the relationship established between the client and the registrant and the client's expectations of that relationship (based on the services and products offered and the representations made by the registrant), before concluding that the client would not expect concentration and liquidity to be assessed on a portfolio basis. It is not acceptable for registrants to use boiler plate in retail account opening forms that would purport to have clients default to a waiver of consideration of concentration and liquidity across their accounts at the firm.

Where by reason of corporate structure separate business lines at a registrant have been set up as divisions of the registrant rather than as separate legal entities, the registrant should consider, within the context of the relationships it has established with clients and the clients' expectations, whether it can treat accounts between business lines the same as accounts between firms, as noted above.

Scenarios – Multiple accounts of the same client within one registrant: *Special situations*		Response (subject to the discussion above)
71.	**Order Execution Only (OEO) accounts** A strict reading of the guidance would mean that an assessment of suitability for an advisory account would have to take into account, for concentration and liquidity purposes, holdings in a related OEO channel (where the advisory channel and the OEO channel are contained within the same registered firm).	OEO accounts of a client can be excluded from consideration of concentration and liquidity factors in the client's non-OEO accounts because the registrant does not provide suitability assessments in respect of investment decisions in those OEO accounts and provided that the registrant has not represented to the client that these holdings will be considered.
72.	**Institutional clients** Institutional clients (not all of which are permitted clients) may hire a PM or dealer, either directly or through asset management consultants, to manage to specific mandates only, including as a sub-advisor.	Some institutional investors have particular needs and will engage a registrant for a specific mandate. The extent of the concentration and liquidity assessments when making suitability determinations for these clients must be consistent with the nature of the client-registrant relationship, the services and products offered and representations made by the registrant. If, as non-individual investors, they qualify as permitted clients, institutional clients will be able to waive the registrant's suitability determination obligation under NI 31-103, including the consideration of concentration and liquidity across multiple accounts. If an institutional client does not waive suitability assessments or is not able to do so because it does not qualify as a permitted client, then the registrant may, depending on the nature of the client-registrant relationship, the services and products offered and representations made by the registrant to the client, use its professional judgement to determine whether the client understands, and does not need, the benefit from having concentration and liquidity assessed across its accounts with the registrant. IIROC members must comply with IIROC rules, which have specific provisions relating to institutional clients and suitability assessments.

73.	**Individuals and specific mandates** Some individuals may be sufficiently knowledgeable (or have access to asset management consultants) such that they will retain a PM or dealer with specific mandates in a similar manner to an institutional client.	An individual who qualifies as a permitted client is able to waive suitability determinations altogether for non-managed accounts. In other circumstances, where an individual has retained a registrant to advise on an account with a specific mandate distinct from other accounts they have with the firm, the application of the concentration and liquidity factors to a suitability analysis will require an exercise of professional judgment. The firm must determine the client's expectations based on the nature of the client-registrant relationship and must consider whether the client has a level of investment knowledge sufficient to support a conclusion that the client understands, and does not need, the benefit of having those factors considered across all of their accounts at the firm in suitability determinations going forward. We stress that in our view, individuals (particularly those who are not permitted clients) are less likely to have that level of investment knowledge, as compared to institutional clients.
74.	**Employee investment plans** Some individuals who are employees of securities issuers may participate in share purchase or option plans that result in unusually high concentrations or illiquidity in their accounts.	Registrants are not expected to conduct a real time suitability analysis on a client's investments held outside the firm. Such investments may however help inform the registrant about the client's financial circumstances to support suitability determinations. A registrant must use its professional judgment to determine appropriate concentration and liquidity thresholds for the client under the circumstances and have controls in place to calculate, monitor and manage concentration in a client's account. If the registrant concludes that it is suitable and puts the client's interest first for the client who participates in an employee share purchase plan or similar arrangement to be over-concentrated in the securities (which may be, for example, because the securities can be acquired at below market value) or to hold them notwithstanding limited liquidity, the registrant should discuss the client's expectations and together they may decide that the securities can be excluded or discounted when assessing liquidity or concentration levels going forward. On the other hand, if the registrant concludes that it is not suitable and does not put the client's interest first but the client nonetheless wishes to acquire the securities in quantities that give rise to concentration or liquidity concerns, the registrant should explain the reasons to the client and offer an alternative approach and then document the ultimate decision governing future actions involving those securities.

75.	**Different business lines within the same registered firm** Clients with accounts in more than one division within a registered firm, which may be distinctly branded lines of business, may have different expectations for such accounts. This can be the case where a firm is registered in a single category, or where it has multiple registration categories.	The decision whether it would be appropriate to exclude accounts in different operating divisions from concentration and liquidity assessments cannot default to a pre-determined conclusion. For example, providing a service under one registration category or another, such as a firm's EMD registration, is not in itself determinative of the issue. For OEO accounts, see our response under question 71 [*Order Execution Only (OEO) accounts*]. We recognize that in some cases, divisions within a single registered firm may effectively operate as separate registrants. These divisions may have some or all of the following characteristics: • they operate separately and distinct from one another • they have different managing minds, officers, senior management and staff • they have separate policies and procedures, supervision and compliance functions • they have distinct client account documentation • they use separate technology • they are distinctly branded • they offer different products and services, which are marketed differently, and target different clients or client needs Although none of these characteristics is determinative on its own, where operating divisions have been structured with these characteristics it may be appropriate for the registered firm to use its professional judgement to make a decision at the registered firm level about whether concentration and liquidity must be assessed across client accounts in the different operating divisions. That assessment should include consideration of how a registered firm with multiple distinct operating divisions holds itself out to clients and the resulting client expectations of the client-registrant relationship. We remind registered firms of their relationship disclosure obligations under Part 14 of NI 31-103 (including the changes under the CFRs), and expect that clarity will be provided to clients about the client-registrant relationship, the products and services the registered firm will be providing to the client within each operating division, and the scope of the suitability determination that will be provided. We also remind registered firms of the misleading communications requirements under section 13.18 of the CFRs, and, in particular, the prohibition on a registered firm holding itself or its registered individuals out in a manner that could reasonably be expected to deceive or mislead any person about the nature of the person's relationship, or potential relationship, with the registrant, as well as the products or services provided, or to be provided, by the registrant. We expect that firms will consider this requirement in brand promotion, and the impact this may have on client expectations of the client-registrant relationship and the products and services that the operating divisions with the firms will be providing.

76.	**Multiple registered representatives** Clients may have accounts with more than one registered representative in the same line of business.	The fact that a client has different registered representatives for different accounts within the same line of business is not in itself a sufficient reason to exclude an account from an assessment of concentration and liquidity across the multiple accounts. It is the firm's responsibility to set appropriate concentration and liquidity thresholds for clients and to implement appropriate controls such that these can apply across accounts.
77.	**Registered representatives with limited proficiency** Particularly in firms that are registered in multiple categories, registered representatives may not have the proficiency to assess suitability of holdings in all of a client's accounts at the firm.	It is the responsibility of a registered firm to establish appropriate concentration and liquidity thresholds for client's accounts across the firm. Registered representatives of the firm should adhere to them. If it appears to a registered representative that an exception might be appropriate, the registered representative should take the steps prescribed in the firm's policies and procedures. The firm's policies and procedures must require that only registered representatives with appropriate proficiency make decisions or recommendations for clients in those circumstances.
78.	**Household account reporting** Clients sometimes request and receive additional account statements and cost and performance reports prepared on a "household" basis that includes the accounts of family members.	Registered firms may choose to provide supplementary reporting at the "household" level to clients that want it but only as supplemental information: there is no exemption from account-level reporting. If a registrant provides "household" reports, that does not mean the registrant must also make suitability assessments at the "household" level or consider the concentration and liquidity factors at the household level.
79.	**Household suitability determinations** Can a registrant perform suitability determinations at a "household" level in place of account-level suitability determinations?	There is no exemption from the requirement to perform account-level suitability determinations. However, registered firms may choose to perform supplementary suitability determinations at the "household" level for clients that want it. Before registered firms can perform supplementary suitability determinations at the household level: • the household members should have sufficient alignment of investment objectives to benefit from a household account suitability assessment, • each individual who is not a minor within the household should be fully informed of the purpose of a household suitability determination and how it differs from account-level suitability determinations, • each individual who is not a minor within the household should agree to the carrying out of a household suitability determination. The requirements in section 13.3 apply to account-level suitability determinations and supplementary suitability determinations at the household level.