Via email

January 23rd, 2017

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Re: Guidance on Order Execution Only Services and Activities (OEO)

It is with trepidation that I have read the proposed new Guidance document and I now feel compelled to comment after reading it and the thoughtful letter you have received from Mr. Peter Whitehouse. Changes to the business conditions OEOs face will directly affect me, negatively, I fear.

I am a 64 year old retired investor. My entire financial assets reside with an OEO and I am critically dependent on those assets since I have only CPP/OAS to rely on for income apart from annuities purchased in the last few years after selling some of those investments. I am an entirely self-directed, self-managed investor and have been so for many years. My experience with OEOs goes back 20 years. I have extensively used the services of two major bank-owned OEOs, an independent OEO and a couple of other bank OEOs to a lesser degree. I have opened, closed, transferred, managed and continue to manage many accounts – regular trading, RRSP, RIF, LIRA, LIF, RLIF, RESP, TFSA and Testamentary Trust accounts in a variety of roles including principal, trustee, executor and power of attorney. Finally, the past ten years I have been writing two blogs on investing addressed specifically to a Canadian audience – HowtoInvestOnline and Canadianfinancialdiy.

It may surprise you to hear this but my experience with all the OEOs has been an overall positive! Yes, they screwed things up at times in ways that caused me considerable extra work but I have always managed eventually to get the errors fixed. I have never lost a lot of money due to an OEO action or inaction. (My biggest losses have been due to my own in-caution combined with other regulatory or policy failings e.g. the LSVCC fiasco.) OEOs cover the gamut of investments any individual could want with generally adequate selection. Thus, my first point is, "The OEO business model for the self-directed investor doesn't appear to me to be broke … and if it ain't broke, don't fix it".

To echo Mr. Whitehouse, the proposed Guidance appears to unjustifiably expand the notion of advice or recommendation and then to impose many restrictions. I don't receive any direct advice, solicited or unsolicited, from any of my OEOs, about my portfolio. Where's the problem anyway? Have hundreds of investors been complaining about being misled or cheated by their OEO tools, top-picks, infomercial material or whatever? I seriously doubt it.

OEO = No Advice

The primary reason there is no problem with all those quasi- or attempted "recommendations" by the OEOs as far as I am concerned is that my relationship with them is crystal clear. They do not provide advice! I don't look at them as providers of advice. Anything from them is a sales pitch to somehow enhance their revenue. Which is fine, I do not have a problem with that. I know where they are coming from, just like I do when I go to buy a car or a sofa. The "recommendations" the shop people provide are transparently intended and understood to sell me something. It is an honest straightforward relationship because the respective positions and interests are clear. It is the same for the OEO.

Furthermore, when going to buy a car or a sofa, the salesperson's comments and recommendations can be very helpful in pointing out features I may find attractive, which we know will be heavily slanted to the positive of course. It is the same with investing and OEOs. There is a constant deluge of "recommendations" from many sources – "Ten safe stocks for your portfolio", "5 star core holdings", "The best Canadian dividend ETF" etc. It's everywhere on the Internet. I write some of that stuff myself. All of it is just someone's opinion backed up with more or less good analysis. A few even contain good investing ideas but I know it's my responsibility to follow up and decide what to do and that the recommender is not accountable or liable for bad results. I *want* to be able to be influenced by well-argued, well-analyzed material. To write that "... *considered to be recommendations if they could reasonably be expected to influence a person's investment decision regarding securities*" (in para 3.3.9) is a potential problem, turns a positive into a negative. If it doesn't influence me, it is useless junk, distracting noise. I recently complained to my main OEO when it switched its ETF comparison tool to a prettier but less informative version. I don't use their new tool, it no longer influences my decisions. It's one reason I have used more than one OEO at a time – when researching investments, I can combine the best of all of them.

My worry is that in attempting to fix a non-problem, the IIROC Guidance may cause OEOs to withdraw many or most of the most useful additional features.

Being skeptical and cynical, I am led to wonder if this Guidance initiative is, rather being an attempt to ward off future lawsuits from unsuitable recommendations, a back-door attempt to drive investors back to more profitable full-service brokers or robo subsidiaries where there is an extra charge merely to maintain a simple model portfolio. Giving access to too many free good quality tools which give investors solid good-enough results is bad for profits. Should the proposed Guidance be implemented and the useful add-ons be forcibly withdrawn, I could foresee the industry being happy since the level playing field is maintained and the big players who stand to profit most if that happens will blame it on their regulatory obligation. (Oh, who runs IIROC anyways? Never mind, I have plenty of bank shares in my portfolio.) A suspect deficient consultative process as noted by Mr Whitehouse, adds to the feeling of disquiet.

Rather than force OEOs to dumb-down their offerings I would rather want them, through marketplace pressures, to continue to expand and improve their tools.

I cringed when I read the proposal that Permitted Model Portfolios should be restricted to consider only Class of Investor, Asset Class, Industry Sector and Time Horizon, leaving out the most critical component of all, Risk Profile. As you surely know, the OSC Investor Advisory Panel is currently leading a broadly supported initiative to improve Risk Profiling in Canada, which has been discovered to be very poorly done at the moment with only about 17% of surveyed industry tools deemed fit for purpose. That's where IIROC should be putting its effort by ensuring that OEOs ***definitely include*** a good Risk Profiler for its model portfolios. There are some good ones out there. It is a bit tricky to get right it seems but a good tool provides reassurance and solid guidance, as I discovered when researching my blog posts on the subject (Risk profile intro, Risk Tolerance, Risk Capacity, Risk Need) and filling in a few for my own circumstances. Unfortunately, when I've looked at my own OEO's risk profiler and several of the robos', their tools looked like toys. In addition, almost all the risk profilers are oriented to the younger accumulating phase investor. Very few deal at all well with the retiree situation – e.g. how is your health, type questions are probably essential. There is lots of room for big improvement that could happen relatively quickly.

Rather than repeat his other points, I would add my voice to what Mr Whitehouse has noted.

Best regards,

Jean Lespérance