

# INVESTOR ADVISORY PANEL

July 23, 2019

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## **Re: Proposed Amendments to MFDA Rule 2.3.1(b) (Discretionary Trading)**

The Investor Advisory Panel (IAP) welcomes this opportunity to comment on a proposal permitting discretionary trading for the limited purpose of rebalancing model portfolios (the 'Proposed Amendments'). The IAP is an initiative by the Ontario Securities Commission to enable investor concerns and voices to be represented in its rule development and policymaking process. Our mandate is to solicit and represent the views of investors on securities-related policy and rulemaking initiatives.

We understand and appreciate that the Proposed Amendments are intended to streamline and expedite the rebalancing of mutual fund model portfolios. Furthermore, we recognize that some discretionary latitude will be necessary to effect this rebalancing. However, we believe the discretionary latitude needs to be clearly prescribed and specifically limited in order to ensure that investor interests remain paramount in the rebalancing process. The Proposed Amendments, as currently set out, do not provide the detail or specificity we believe is necessary to ensure this.

In particular, we are concerned about a lack of clarity where the Proposed Amendments state: "the MFDA Member would be subject to a portfolio manager standard of care in respect of any discretionary trading done in the model portfolio(s) in which the client was invested". We are unclear whether this means that a Member engaging in this type of rebalancing would be subject to a fiduciary conduct standard. In part, this confusion stems from the Proposed Amendments' use of the words "standard of care" – which typically connote obligations to exercise diligence and skill, as distinct from obligations of fidelity.

We believe this uncertainty can be eliminated by expressly restricting discretionary rebalancing to registrants who are subject to a statutory or regulatory fiduciary standard. Short of this requirement, the IAP would have concerns that the Proposed Amendments could result in situations where discretionary trading may not always be conducted in the best interests of the portfolio's investors.

We appreciate this opportunity to comment on the Proposed Amendments. Please let us know if you require any further information or clarification from us.

Yours truly,

A handwritten signature in blue ink, appearing to read "Neil Gross". The signature is cursive and somewhat stylized, with the first name "Neil" and last name "Gross" clearly distinguishable.

Neil Gross  
Chair, Investor Advisory Panel