



VIA E-MAIL

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Attention:

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Re: Issues and Discussion Paper of the Autorité des marchés financiers on account transfers in the financial sector

OVERVIEW

The Portfolio Management Association of Canada (**PMAC**) is pleased to have the opportunity to submit the following comments on the Autorité des marchés financiers (AMF) *Issues and Discussion Paper on account transfers in the financial sector* (the **Paper**). We encourage the Autorité des marchés financiers (**AMF**) to also take into account comments on the Canadian Investment Regulatory Organization (**CIRO**) consultation on [IDPC Rule 4800 and MFD Rule 2.12 – Modernization of requirements for account transfers and bulk account movements](#).

PMAC represents over 330 investment management firms registered to do business in Canada as portfolio managers (**PMs**) with the members of the CSA. PMAC's members encompass both large and small firms managing total assets in excess of \$4 trillion as fiduciaries for institutional and private client portfolios. PMAC's mission statement is "advancing standards". We are consistently supportive of measures that elevate standards in the industry, enhance transparency, improve investor protection, and benefit the capital markets as a whole.

KEY RECOMMENDATIONS

- 1. Implement cross-sector timelines for standard account transfers but allow flexibility for complex transactions;**
- 2. Harmonize requirements and exceptions between the CSA, CIRO and other regulators;**
- 3. Pursue a technology solution that is cost-effective and acceptable to firms of different sizes, types and industry sectors.**

GENERAL COMMENTS

We applaud the AMF for taking a cross-sector approach to its review of account transfers, since these transactions often involve various industry participants. We agree that there is a great deal of inconsistency in the markets surrounding client transfers, and that delays or service disruptions can result in investor harm. We agree that technology solutions to reduce or eliminate manual processes may mitigate some of these problems, and that regulatory requirements should be adapted to give effect to these solutions.

As noted below, some of the consultation questions are not directly relevant to the portfolio management business. Transfers are usually handled by their third party custodians, which are often CIRO-registered dealers. We have tried to emphasize issues that may arise in the context of a client transferring assets between other institutions and a PM firm.

We have focused our responses on the questions specific to the securities sector, and offer additional comments on some other portions of the consultation.

CONSULTATION QUESTIONS

Questions for reflection and discussion specific to the securities sector

1. Have you noted any account transfer-related issues affecting securities registration categories not required to be CISO members, such as exempt market dealers, portfolio managers and restricted dealers?

Most PMs use a third party custodian to custody client assets (which is often a CISO-registered investment dealer or a trust company). PM firms often use more than one custodian, because particular institutional clients may have a preferred custodian that the PM is required to use.

Account transfers also take place between various institutions including investment dealers, trust companies, banks, credit unions, and insurance firms. This can include circumstances where a client wishes to move their account to the PM from another firm, or to transfer the account away from the PM to another firm. There are also situations where the PM decides to change several client accounts from one custodian to another. Account transfers for PM clients usually occur between custodian firms but the PM firm or firms involved in the transaction may be responsible for aspects of the transaction, including communicating with clients and obtaining client documentation.

It is our understanding that firms currently have vastly different requirements for account transfers. These vary from the use of paper documents and wet signatures to faxes, e-mail or electronic signatures and from manual processes to electronic or technological processes. Firms may have system limitations or lack the human resources to effectuate transfers quickly. Also, in some instances transfers may take longer because there is no incentive to execute an account transfer quickly.

Currently, firms are familiar with the parties they regularly deal with and know that some firms take longer than others to complete a transfer. This could be due to a combination of factors such as the other party's internal processes, staffing levels, etc. Many of these issues could be resolved with a technology solution, but in order to be successful, the solution must be widely adapted by the industry; it must be cost-effective and meet the requirements of all parties.

Additional flexibility may be required if the parties are regulated by different entities; different sectors may have different rules, technology and systems that won't necessarily align. For example, many PMs do not use FundServ and

only have the capacity to manually process transfer requests; or, the account may hold assets that are not eligible for electronic transfers. Such transfers could take several weeks to complete. Requirements and exceptions should be harmonized to the extent possible between CRO, the CSA and other regulators to make the process as seamless as possible for investors and registrants.

2. Should the AMF consider adopting a regulation to provide cross-cutting oversight standards for account transfers, including the adoption of a minimum transfer timeframe, which would apply to the securities, insurance and deposit institutions sectors?

We believe that the adoption of a transfer timeframe would be desirable for standard transfers or those with simple impediments. Meeting a pre-determined timeframe requires both parties to cooperate and action the request in a timely way. It would be impractical to impose firm timelines on non-standard transfers. A better solution may be to provide for exceptions to the requirements, but only in appropriate circumstances.

Where there are more significant impediments, the timeline would be longer. There are instances where a transfer request can't be initiated within a short timeframe (for example, where ownership of the asset(s) in question is disputed, or the assets are not transferable). This would also include situations where there is a client error, which is not uncommon. Therefore, there must be some flexibility built into the requirement, where such issues are not identified quickly.

We agree that a cross-sector approach would be preferable, since account transfers also take place between various institutions including investment dealers, trust companies, banks, credit unions, and insurance firms. The timing of the account transfer may depend on circumstances such as the nature of the assets and how they are custodied. The rules must be sufficiently flexible to account for different situations and provide for the efficient resolution of disagreements among the parties in terms of the process to be employed. It would be impractical to impose firm timelines on such transfers.

Although we agree that standard requirements would be ideal, there are many variables that could make standardization impractical. The information in the form must be relevant to the type of firm and sector, the client, the type of account, and the nature of the assets in the account and how they are custodied. Smaller firms may not have the resources to invest in technology

solutions and some clients may require a different approach. This is especially true for institutional clients, which typically have very specific requirements and to which requirements applicable to retail clients would not be relevant.

Requirements must be sufficiently flexible to account for these different situations, and provide for the efficient resolution of disagreements among the parties in terms of the process to be employed.

3. With respect to bulk transfers of accounts in the securities sector, should the AMF consider amending the applicable rules or guidance that is provided, particularly on the following page: [Bulk transfers of accounts - For Securities sector only | AMF](#)

We ask the AMF to consider feedback on the CRO consultation *[Modernization of requirements for account transfer and bulk account movements \(IDPC Rule 4800 and MFD Rule 2.12\)](#)*, and work with other regulators to harmonize any proposed rule changes.

Questions for reflection and discussion

Issues

1. What issues have you observed when clients request to have their accounts transferred?

Members have identified issues including mismatched account files (where names do not match registrations), incorrect account numbers (or incorrect account numbers for the account type at the other institution), and inclusion of assets that may not be eligible for transfer.

2. Have you observed any issues specific to a particular sector?

Members have identified issues with respect to various sectors including pensions, insurance products and foreign securities (especially from countries that are on a watch list), which can be difficult to transfer.

3. Have you observed issues specific to transfers for registered and non-registered accounts? If so, what are they?

In some cases, registrants are not aware of limitations on the ability to transfer certain assets. For example, in LIF, LRIF, and RIF accounts, clients may not be aware they need to take the maximum annual withdrawal amount

from the delivering account, otherwise this will not be available from the new receiving account.

4. Please describe how representatives involved in transfers are compensated.

We did not receive any feedback on this question.

Maximum timeframes for account transfers

5. Do you think that a standard maximum account transfer timeframe for all sectors should be imposed? If so, what should that timeframe be? If not, explain why.

A maximum account transfer timeframe would be ideal for account transfers. However, until there is technology in place to facilitate this process, it would be difficult to establish a firm timeframe. There are other factors that influence the timeframe that should be considered, such as the type of securities and seasonal volumes for transfer requests.

6. Are there issues, including technological issues, that might warrant the adoption of a longer timeframe? If so, please describe them.

As noted above, there is currently no single technological solution used throughout the industry, which makes it more difficult to achieve a shorter, harmonized timeframe.

7. Are there types of financial assets that might not be transferred within a specified timeframe? If so, what types and why?

Some examples of assets that may take a longer time to transfer include:

- Private investment funds, illiquid products – there is a lack of consistency across the industry in terms of how these are transferred;
- Private placements – these take longer as they require additional documentation;
- Estates – the transfer involves the use of certain forms and documents for registered and non-registered assets;
- Transfers from a related third party such as a family member;
- Monthly-priced mutual funds;

- There are instances where receiving institutions do not accept certain securities – for example, some PMs will not accept funds in-kind, other firms may not accept riskier securities.

8. Are there particular issues with requests for partial transfers of assets?

There can be issues with instructions related to partial transfers of fund units. Instructions sometimes refer to dollar amounts, instead of units.

9. Do you think it would be a good idea to require all client retention efforts to be made within the maximum timeframe if such a timeframe were to be prescribed? If not, explain why not.

Under the Account Transfer Online Notification (ATON) service practices, the delivering dealer has 48 hours to accept or reject a transfer, but within those 48 hours, they can try to retain the client. We agree that a prescribed timeframe could impact the speed at which the transfers are completed.

Account transfer procedures

10. To your knowledge, do the businesses make their asset transfer policies and forms publicly accessible at a client's request?

Transfer forms are available at the client's request, but may not be publicly accessible. However, the specialist supporting the transfer would want to assist in filling out forms, to reduce errors.

11. Do you think that provisions should be introduced to encourage the disclosure of such policies and forms to clients? Conversely, do you foresee any issues with introducing a requirement to publish such policies and forms?

We agree that these forms should be available to clients upon request. Given that the forms change from time to time, publication may cause investor confusion; we do not believe publication would serve an investor protection outcome. Requiring publication would be burdensome because it would require maintenance to ensure continued accuracy.

12. To your knowledge, what are the typical fees paid by clients when financial assets are transferred at their request? Are clients usually refunded by the business to which the assets are transferred?

It is our understanding that fee practices vary. We understand that some dealers charge \$150.00 to clients to move all or a portion of the account. These fees are sometimes reimbursed by the receiving dealer. Dealers limit the amount of reimbursement, but we understand that the amount can vary from \$150.00 to \$20,000.00.

13. Do you see any possible issues with the fees charged to clients when financial assets are transferred at their request?

We understand that firms may wish to recover some of the costs of account transfers but believe that such fees should be nominal, transparent to the client, and proportionate to the actual cost of processing the transfer. If shorter transfer times are prescribed, fees may increase due to the additional staffing and processes involved in meeting tighter timeframes. Fees should be standardized across the industry to the extent possible.

14. Do you think the fact that the forms and technological processes used for transfers are not standardized raises a consumer protection issue? If so, should measures be considered to provide guide posts for forms and processes used for transfers, including the minimum information required?

We agree that standardization of minimum information and format could improve the client experience and efficiency of the transfer. The lack of consistency with respect to what is considered a deficiency/impediment is a consumer protection issue. For example, there are customer privacy concerns when submitting transfer documentation; the receiving dealer receives real-time updates on each position. A privacy challenge could represent an impediment, if identifying information is mismatched. We recommend standardizing what is considered to be a deficiency across the industry.

15. Is there anything else you would like to bring to the AMF's attention?

We note that a shortened timeframe may impact account transfer oversight, and make it more difficult for firms to determine whether a transfer request is fraudulent. It takes time to properly review, assess and confirm account transfer requests.

Questions for reflection and discussion [re bulk transfers]

1. Should a notice be sent to clients to obtain their consent prior to a bulk transfer? If so, what should the length of the notice period be?

We agree that notice and consent should be sent to clients, depending on the type of bulk transfer being contemplated. This could be in the form of an informational notice to clients, especially in circumstances where a regulator has approved the transfer. Obtaining consent from individual clients can significantly extend the time to complete a bulk transfer.

2. Should other businesses affected by, but not involved in, the bulk transfer be notified?

We did not receive any feedback on this question.

3. After the transfer, should the clients be given time to cancel it? If not, please justify your answer with examples.

We did not receive any feedback on this question.

4. Should the transfer of a client record that results in a new representative being assigned to an account necessarily involve updating the client's information?

It is fundamental that the client's information be updated when a new representative is assigned to the account - this is an existing securities law requirement.

5. The representative involved may receive a financial incentive to switch businesses, bringing their clients with them. For transparency purposes, should there be a requirement to disclose such incentives to the client?

We did not receive any feedback on this question.

6. Is there anything else you would like to bring to the AMF's attention?

We did not receive any feedback on this question.

CONCLUSION

We believe that imposing timelines for initiating and completing standard account transfers in the securities sector would result in more efficiencies for firms and better outcomes for clients. However, we recommend a flexible, principles-based approach for more complex transactions. Any requirements and exceptions should be harmonized to the extent possible between the CSA, CIRO and other regulators. A technology solution would represent a significant improvement, if it is cost-effective and adaptable to firms of different sizes, types and industry sectors.

We would be pleased to discuss our recommendations further with you. If you have any questions please contact Katie Walmsley (kwalmsley@pmac.org) or Victoria Paris (vparis@pmac.org).

Sincerely,

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