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DELIVERED BY EMAIL

December 22, 2022

Kathryn Royal
Manager, Strategic Planning and Reporting
Ontario Securities Commission
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Dear Ms. Royal:

Re: OSC Notice 11-797 – Statement of Priorities – Request for Comments regarding Statement of Priorities for Financial Year to End March 31, 2024

We are pleased to provide comments to the Ontario Securities Commission (OSC) on its draft Statement of Priorities for Financial Year to End March 31, 2024 (SofP). We support the OSC's priorities and our comments are focused specifically on Key Priority 2.1, to expand the focus on retail investors through specific education, policy research and behavioural science activities, and Key Priority 3.1, to strengthen oversight and enforcement in the crypto asset sector.

Key Priority 2.1 - Expand the Focus on Retail Investors Through Specific Education, Policy, Research and Behavioural Science Activities

We support the OSC's efforts to identify ways to improve investor education and protection, responding to changing demographic profiles of investors and shifts in investing behaviour. In particular, we are committed to making investing more accessible and less intimidating, particularly for first-time and younger investors.

Whether it be online advice or DIY trading of stocks or crypto, Wealthsimple has always believed in the importance of investors having access to credible information, education and support to become better investors. We don't have account minimums, we're transparent on our fees, and we've taken steps to make it easier for anyone to buy any stock they want, by being the first and only brokerage in Canada to offer fractional trading of Canadian securities.

We're fortunate to have been successful to date, in part thanks to effective collaboration with Canadian securities regulators. Our approximately \$18B AUM is modest relative to large Canadian banks and belies our true impact: we're proud to provide digital financial services to more than 3 million Canadians, almost 80% of whom are aged 40 and under and 51% of whom are first time investors. We take seriously the opportunity to be the trusted partner of the next generation of investors.

While we've had success, we share the OSC's concerns that investors must have the information they need to make informed financial decisions and maintain confidence in the capital markets. We note that many Canadians are not getting financial information and advice from reputable sources, may be taking big risks without proper awareness of the potential downsides, or generally do not find that financial services are available to them in the digital channels where they are most comfortable. Compounding these challenges are the rising cost of living and erosion of workplace pensions. These issues contribute to the urgency we feel to help young Canadians be set up to achieve financial freedom.

In addition to the actions outlined in the SoP, we believe that the OSC should implement policy changes that will facilitate the ability of regulated actors in the capital markets to provide financial education to investors. In this regard, we recommend that the OSC work with IIROC to amend or repeal [IIROC Guidance Note GN-3400-21-003 on Order Execution Only Services and Activities](#) (Guidance Note).

Order execution only (OEO) dealers are not required to satisfy a suitability obligation. This makes sense: it's important that we preserve a regulatory framework that includes an option for clients to make their own investment decisions without a dealer or adviser telling them what is "suitable" or not.

However, the current IIROC approach, which prohibits OEO dealers from providing beneficial tools, guidance, resources and support, broadly defined as "recommendations", must change. The Guidance Note sets out requirements that are counter to the interests of investors and drives investors to third party sites and third party tools, none of which need be registered or subject to regulatory oversight. This problem was articulated clearly by our CEO, Michael Katchen, in a [Globe and Mail op-ed](#) last year.

The Guidance Note draws a bright line that prohibits OEO dealers from making recommendations. The first question to answer is "why" are recommendations banned? Clearly, recommendations outside of an OEO dealer platform are fine. The CSA has adopted a clear set of rules around recommendations or advice that is not tailored to the needs of the recipient in Section 8.25 of NI 31-103. Under this exemption, columnists recommend stocks in the pages of major newspapers, bloggers send trading ideas to their followers and social media influencers proclaim that Stock X or Stock Y is a "must buy".

Why can unregistered people provide recommendations to the public without registration, while registered OEO dealers cannot do the same for their clients? The answer may be that some policymakers are concerned that allowing OEO dealers to provide recommendations without a corresponding suitability determination would undermine the entire notion of suitability. If so, this is an acceptable trade-off. Without a fiduciary duty to a client, it's highly questionable for our securities regulatory regime to insist that advisers decide what is "suitable" for investors to buy, hold and sell - and to charge high fees for doing so. Realtors do not decide what homes are "suitable" for homebuyers, banks do not decide what is "suitable" for clients to purchase with their credit card, and car dealerships do not decide whether it is "suitable" for a consumer to purchase a truck or car. Investors choose OEO platforms because they don't want to pay for tailored, personalized advice

that is “suitable” for them. What investors do want, and need, is to be helped when they are confused or looking for unbiased and informed resources to aid in their investment decision-making.

Consider this statement from the Guidance Note on the offering of “informative tools”:

Informative Tools are undoubtedly helpful to clients [emphasis added]; however, they may, depending on the facts and circumstances, be considered to be recommendations if they could reasonably be expected to influence a person’s investment decision.

If informative tools are “undoubtedly helpful to clients”, then regulatory policy should embrace and encourage them, not prohibit them. Regulators must embrace a role for OEO dealers to provide helpful tools to clients without adding a suitability requirement. Respectfully, such a requirement is neither needed nor wanted by investors and does not advance the interest of investor protection.

Wealthsimple has specific ideas for how to amend the Guidance Note to improve the investment experience and outcomes for clients of OEO dealers. We would be happy to engage with OSC and IIROC staff to share our ideas. We are supportive of the OSC’s plans to continue expanding its applications of behavioural science to policy making. We would be happy to work with the Investor Office Research and Behavioural Insights Team on our policy ideas to determine whether changes to the Guidance Note might lead to better outcomes for investors.

Our user experience research shows that the lowest point in the customer journey for first-time investors is the “discovery” phase, when they are just starting to learn about investing and before they have selected a platform. This is consistent with [OSC Staff Notice 11-782 - Getting Started: Human-Centred Solutions to Engage Ontario Millennials in Investing](#) (OSC Staff Notice), which outlined barriers to engaging Ontario millennials in investing. Regulatory policy should encourage OEO dealer initiatives designed to empower and educate investors, and facilitate access to investment services.

Key Priority 3.1 - Strengthen Oversight and Enforcement in the Crypto Asset Sector

We support the OSC’s efforts to strengthen oversight of crypto asset trading platforms. While multiple Canadian platforms have become registered, no non-Canadian platform has become registered, and only one has provided a pre-registration undertaking. We are concerned about the continued growth and solicitation activities of unregistered crypto asset trading platforms in the Ontario market, particularly non-Canadian platforms. In fact, the OSC’s recent Crypto Asset Survey confirmed that three out of the four crypto asset trading platforms most used by Canadians are both non-Canadian and unregistered.

The continued presence of unregistered platforms in Ontario undermines the purpose of the *Securities Act* (Ontario) (Act) to protect investors from unfair, improper or fraudulent practices and to foster fair and competitive capital markets.

In our response last year to the OSC’s SoP, we noted that to our knowledge, unregistered crypto asset trading platforms are not paying any capital markets participation fees to the OSC, which

disadvantages all fee-paying capital markets participants in Ontario. A year later, we believe that this issue continues to exist. The OSC should require every capital markets participant, including all crypto asset trading platforms operating in Ontario, to pay their fair share in order to ensure adequate resources are in place to fund the mandate of the Commission.

One of the actions under Key Priority 3.1 is to “continue to apply regulatory obligations to crypto firms while completing the registration or approval process, including obtaining pre-registration undertakings from firms pending completion of the registration or approval process.” While we agree that applying regulatory obligations to crypto firms is needed, we are concerned that specific rules around crypto asset trading platforms, in the form of terms and conditions on registered firms, are being developed without transparent public consultation. Absent full, open and ongoing consultation with the appropriate stakeholders, regulation of crypto asset trading platforms is likely to be inconsistent and result in requirements becoming ingrained in the regulatory regime that are not fit for purpose.

In addition to the potential for the inappropriate application of existing securities law requirements to crypto asset trading platforms, entirely new requirements such as purchase limits and loss limits have been imposed. We are concerned that these limits, which imply that regulators are applying a risk-reward assessment on crypto assets, have been imposed without the benefit of any industry or public consultation or a comprehensive assessment of whether they will advance the purposes of the Act, particularly investor protection.

Finally, the use cases and applications for crypto assets are far-reaching and extend well beyond trading and investment. The future regulation of crypto assets will necessarily span several different regulatory regimes, including taxation, securities, lending, insurance, payments, gaming, communications and consumer protection. We believe that there is a need for broad and transparent consultation among policymakers and regulators to achieve the appropriate balance that protects investors and promotes responsible innovation. We therefore encourage the OSC to adopt, as an action item, extensive and ongoing consultation with industry participants and other financial and non-financial regulators to better inform the development of holistic regulation for crypto assets in Ontario and Canada.

Yours very truly,

“Blair Wiley”

Blair Wiley
Chief Legal Officer

cc: Evan Thomas, *Wealthsimple*
Catherine De Giusti, *Wealthsimple*