

Chapter 5

Rules and Policies

5.1.1 Notice of Amendment to OSC Rule 31-502 Proficiency Requirements for Registrants

NOTICE OF AMENDMENT TO ONTARIO SECURITIES COMMISSION RULE 31-502 PROFICIENCY REQUIREMENTS FOR REGISTRANTS

Introduction

The Commission has made an amendment (the Amendment) to Rule 31-502 *Proficiency Requirements for Registrants*. The Amendment and the materials required by the Act to be delivered to the Minister of Government Services were delivered on March 7, 2007. If the Minister approves the Amendments, does not reject the Amendments or return them to the Commission for further consideration, they will come into force on May 21, 2007.

On February 24, 2006, we published the Amendment for comment. We received submissions from six commentators. No revisions to the Amendment were made in response to the comments received. Accordingly, the Amendment is not subject to a further comment period. For a summary of the comments and our response to them, please see Appendix A to this Notice.

Substance and Purpose of the Amendment

The purpose of the Amendment is to remove the limitation on the number of restricted representatives an investment dealer may employ. Restricted representatives have their registration restricted to the sale of mutual funds as a condition of their eligibility for a temporary exemption from the proficiency requirements that are otherwise applicable to investment dealer salespersons. The Amendment is proposed because these limits are no longer needed.

Summary of Changes to the Amendment

There are no substantive changes to the Amendment from the version published on February 24, 2006.

Authority for the Amendment

The following provisions of the *Securities Act* provide the Commission with authority to make rules relating to registration requirements and, as such, to amend them:

- paragraph 143(1)1 authorizes us to make rules prescribing requirements in respect of applications for registration and the renewal, amendment, expiration or surrender of registration; and
- paragraph 143(1)2 authorizes us to make rules prescribing the conditions of registration or other requirements for registrants or any category or sub-category of registrant.

Text of the Amendment

The text of the Amendments follows.

March 9, 2007

**AMENDMENT TO RULE 31-502
PROFICIENCY REQUIREMENTS FOR REGISTRANTS**

PART 1 AMENDMENT TO RULE 31-502

1.1 Amendment – Section 2.1(3) of Rule 31-502 *Proficiency Requirements for Registrants* is amended by

- (a) adding “and” at the end of paragraph (a),
- (b) striking out “and” at the end of paragraph (b), and
- (c) revoking paragraph (c).

PART 2 EFFECTIVE DATE

2.1 Effective Date - This Amendment comes in to force on May 21, 2007.

**AMENDMENT TO
ONTARIO SECURITIES COMMISSION
RULE 31-502 PROFICIENCY REQUIREMENTS FOR REGISTRANTS**

APPENDIX A

**Summary of Comments Received on a Proposed Amendment to
Ontario Securities Commission Rule 31-502 Proficiency Requirements for Registrants
and Response of the Ontario Securities Commission**

1. INTRODUCTION

On February 24, 2006, the Ontario Securities Commission (the Commission) published a Notice and Request for Comments regarding a proposed amendment (the Amendment) to Rule 31-502 *Proficiency Requirements for Registrants* (the Rule). The Amendment concerns the removal of the limitation on the number of restricted representatives an investment dealer may employ. Restricted representatives have their registration restricted to the sale of mutual funds as a condition of their eligibility for a temporary exemption from the proficiency requirements that are otherwise applicable to investment dealer salespersons.

During the comment period on the Amendment, which expired on May 31, 2006, the Commission received submissions from the following parties:

1. Michelle Alexander (IDA – Industry Association)
2. Peter A. Bailey (Raymond James Ltd.)
3. Michael G. Greenwood (Canaccord Capital Corporation)
4. Gary Hein (First Financial Securities)
5. Doug Leyland (YourCFO Advisory Group Inc./YourCFO Wealth Management Inc.)
6. Joseph J. Oliver (Investment Dealers Association of Canada)

The Commission has considered all submissions received and would like to take this opportunity to thank each of the commentators for their views. Copies of the comment letters may be viewed at the Commission's website, www.osc.gov.on.ca under "Rules & Regulation\Rulemaking & Notices\ Rules, Proposed & Final".

The following is a summary of the comments received, together with the Commission's responses.

2. GENERAL COMMENTS

All commentators supported the Amendment in general.

3. SPECIFIC COMMENTS

Five of the six commentators suggested that consideration be given to the removal of section 2.1(6) of the Rule in order to permit investment dealers to permanently employ salespersons who are restricted to the sale of mutual funds. Section 2.1(6) requires restricted representatives to upgrade their proficiency to full investment representative status by completing the Canadian Securities Course and the Conduct and Practices Handbook or the Partners, Directors and Senior Officers Qualifying Examination within 270 days of the date that registration was granted (the 270 Day Requirement). Having done so, a formerly restricted representative then becomes subject to the further requirement that all investment dealer salespersons must go on to complete the Professional Financial Planning Course (the PFPC) or the first course of the Canadian Investment Management Program (the IMP) within 30 months, if he or she has not already done so (ss. 2.1(5)). A proposal to further amend the Rule by replacing the requirement to complete either the PFPC or the IMP with a requirement to complete a successor program, the Wealth Management Essentials Course, will be published for comment separately.

The arguments presented in support of the suggestion to remove the 270 Day Requirement can be summarized as follows:

- investment dealers currently supervise the sale of billions of dollars in mutual fund products;
- it would level the playing field between the Investment Dealers Association of Canada (the IDA) and the Mutual Fund Dealers Association of Canada (the MFDA);

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- IDA By-laws and Rules already contain capital rules and supervisory standards for dealing in mutual funds;
- the mandated infrastructure of IDA dealers satisfies the MFDA sales compliance regime;
- IDA Members have all the necessary controls and procedures in place to supervise the restricted business activity of restricted representatives;
- IDA Members firms are already accustomed to dealing with individual representatives with different licensing entitlements (e.g. options and commodity futures registrants); and
- IDA members would no longer be forced to incur the costs of forming separate mutual fund dealer firms.

The Commission has considered the suggestion to remove the 270 Day Requirement and decided not to do so at this time. The purpose of the temporary status of "restricted representative" is to facilitate the transition of newly hired IDA salespersons who already have qualifications appropriate to the sale of mutual funds into fully-qualified IDA salespersons. The effect of combining this Amendment with removal of the 270 Day Requirement would be to change the purpose of having restricted representatives at IDA members. It would become possible for individuals hired as restricted representatives to remain so indefinitely, allowing IDA members to have unlimited numbers of representatives qualified only to deal in mutual funds. However, as our securities regulatory system is presently structured, it is the role of the MFDA to act as the self-regulatory organization (the SRO) for firms and individuals whose dealer activities are limited to sales of mutual funds. The consequences of removing the 270 Day Requirement would be to permit a business model that would be inconsistent with the design of the existing regulatory system. Also, if a sufficient number of the MFDA's larger members were to transfer their operations to IDA affiliates, the ongoing viability of the MFDA could be undermined. We therefore believe that it is appropriate to maintain the 270 Day Requirement until such time as the roles of these SROs in our regulatory system is re-evaluated.