

Chapter 5

Rules and Policies

5.1.1 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, under section 143 of the *Securities Act* (the Act) made an amendment (the Amendment) to Rule 31-502 *Proficiency Requirements for Registrants* (Rule 31-502). The Amendment and the materials required by the Act to be delivered to the Minister of Finance were delivered on July 25, 2008. If the Minister approves the Amendment, and does not reject the Amendment or return them to the Commission for further consideration, they will come into force on October 24, 2008.

On March 9, 2007, we published the Amendment for comment. We received submissions from four 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 revise the post-registration proficiency requirements for salespersons of brokers, investment dealers or securities dealers (salespersons). Currently, after a salesperson's initial registration, the salesperson has 30 months to complete one of two courses in order to avoid suspension of their registration. An equivalent provision, with the same course requirements, also existed in Policy 6 of the Investment Dealers Association of Canada (the IDA, which, in 2008 consolidated with Market Regulation Services Inc. to create the Investment Industry Regulatory Organization of Canada, or IIROC) rules. In July 2006 the course requirements of the IDA Policy 6 provision were revised. The Amendment is intended to amend Rule 31-502 to match the revised IDA Policy 6 provision (now Rule 2900 of IIROC's Dealer Member Rules).

Summary of the Amendment

There are no substantive changes to the Amendment from the version published on March 9, 2007.

Authority for Proposed Amendments

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

Paragraph 143(1)1 authorizes the Commission to make rules prescribing requirements in respect of applications for registration and the renewal, amendment, expiration or surrender of registration.

Paragraph 143(1)2 authorizes the Commission 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.

August 1, 2008.

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

PART 1 AMENDMENT TO RULE 31-502

1.1 Amendment – Section 2.1(2) of Ontario Securities Commission Rule 31-502 *Proficiency Requirements for Registrants* is amended by:

- (a) replacing the wording of subsection (2)(a) with: “completed the Wealth Management Essentials course before the registration was granted; or”, and
- (b) replacing the wording of subsection (2)(b) with: “before the end of the thirty month period, completed the Wealth Management Essentials course.”

2.1 Effective Date – This amendment comes into force on October 24, 2008.

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

APPENDIX A

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

1. INTRODUCTION

On March 9, 2007, the Ontario Securities Commission (the Commission) published a Request for Comments regarding a proposed amendment (the Amendment) to Rule 31-502 – *Proficiency Requirements for Registrants* (Rule 31-502).

The purpose of the Amendment is to revise the post-registration proficiency requirements for salespersons of brokers, investment dealers or securities dealers (salespersons) contained in Rule 31-502 to match the course requirements of Rule 2900 of the Investment Industry Regulatory Organization of Canada's (IIROC) Dealer Member Rules (formerly, Policy 6 of the Investment Dealers Association of Canada's (IDA) rules), which were amended on July 4, 2006 (the Effective Date).

Prior to the Effective Date, both Rule 31-502 and IDA Policy 6 required salespersons to complete either the Professional Financial Planning Course (the PFPC) or the first course of the Canadian Investment Management Program, which is currently referred to as the Investment Management Techniques Course (the IMT), within 30 months after the date of approval of registration. The amendment to IDA Policy 6 changes the requirement to complete the PFPC or IMT course with a new course, called Wealth Management Essentials (WME), within 30 months after the date of approval of registration.

During the comment period on the Amendment, which expired on June 7, 2007, the Commission received submissions from the following parties:

1. Tammy Carpenter (BMO Nesbitt Burns Inc.)
2. Carol J. Persaud (CIBC)
3. Natalie R. Marshall (RBC Financial Group)
4. Joseph J. Oliver (IDA)

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.

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

2. GENERAL COMMENTS

Three of the four commentators stated they supported the Amendment in general. The fourth appears to be generally supportive of the Amendments, although this is not explicitly stated.

3. SPECIFIC COMMENTS

A. **Transition Period.** All four commentators recommended that the Commission adopt a transitional provision similar to that provided by the IDA and outlined in IDA Member Regulation Notice 0404 (Notice 0404). Notice 0404 provides three circumstances where salespersons may rely on the old course requirements (the PFPC or the IMT) in lieu of completing the new WME:

- (a) individuals who have been approved by the IDA and are enrolled in the PFPC or the IMT prior to the Effective Date, so long as the PFPC or the IMT are completed within two years;
- (b) individuals who have not yet received approval by the IDA and are enrolled in the PFPC or the IMT prior to the Effective Date, so long as the PFPC or the IMT are completed within two years;
- (c) individuals who have not yet received approval by the IDA and have completed the PFPC or the IMT prior to the Effective Date, so long as they become approved with the IDA within two years of the completion.

Response: The Commission has proposed an effective date of October 24, 2008 for the Amendment. This date falls after the outer limit of the IDA's transitional provisions set out by the IDA in Notice 0404, which is effectively July 4, 2008. Accordingly, a transitional period relating to the Amendment is not necessary since the IDA's transitional provisions would have already expired.

B. Revocation of Rule 31-502. One commentator recommended Rule 31-502 be revoked, rather than amended. This is the approach taken in proposed National Instrument 31-103 *Registration Requirements* (NI 31-103).

Response: On February 29, 2008, the CSA published proposed NI 31-103. NI 31-103 contemplates a number of amendments and revocations to Ontario's instruments and policies on the basis that the subject matter of the instrument or policy is addressed in NI 31-103. One such revocation proposed in NI 31-103 is the revocation of Rule 31-502 upon the effective date of NI 31-103.

The Commission does not consider it appropriate to revoke Rule 31-502 prior to the effective date of NI 31-103. Rule 31-502 should be dealt with in similar fashion as all other proposed amendments and revocations as a consequence of NI 31-103. Until such time, the Amendment to Rule 31-502 is being made in order to restore consistency with IDA Policy 6 (now Rule 2900 of IIROC's Dealer Member Rules).

C. Differences between Amended Rule 31-502 and IDA Policy 6. One commentator recommended that the Commission consider certain differences between the amended Rule 31-502 and IDA Policy 6. In particular,

- (a) IDA Policy 6 recognizes the Chartered Financial Analyst Course (the CFA) as an alternate for the IMT allowing for an automatic exemption from the WME during the IDA's transitional period.
- (b) IDA Policy 6 provides exemptions from the WME for individuals who complete certain alternate courses prior to July 4, 2008.
- (c) The IDA rules recognize the completion of Parts 1 and 2 of the Canadian Investment Management Course as predecessors to the IMT and PMT courses and, as such, provide certain exemptions from taking the WME;
- (d) The IDA's post-licensing requirement was implemented in January 1994. Both the IDA rules and Rule 31-502 provide exemptions for individuals continually registered since that time. However, individuals continuously registered prior to January 1994 in other jurisdictions must apply for an exemption in Ontario from Rule 31-502.
- (e) Any differences between the IDA's and Ontario's rules places a burden on IDA staff.

Response: As indicated above, the effective date for the Amendment is October 24, 2008. This date falls after the outer limit of the IDA's transitional provisions. As such, most of the differences presented above will not exist at the effective date of the Amendment.

Further, proposed NI 31-103 removes the post-registration proficiency requirements for SRO salespersons and effectively delegates post-registration proficiency requirements to the SROs. Accordingly, it is proposed that, as part of the implementation of NI 31-103, Rule 31-502 be revoked. The Amendment is being made in order to restore consistency with Rule 2900 of IIROC's Dealer Member Rules until such time as Rule 31-502 has been revoked.