

Canada - Applicable Exemptions for Trading or Advising in Listed Futures and Security Options

Assumes implementation of National Instrument 31-103 and the proposed Regulations to amend the Derivative Regulation (Proposed Derivatives Regulation) made under the Derivatives Act (Quebec) and clarification of the scope of the proposed exemption.

JURISDICTION	TRADING		ADVISING	
	FUTURES	SECURITY OPTIONS	FUTURES	SECURITY OPTIONS
British Columbia	UE ⁱ ii	UE ¹ 2	None	None
Alberta	UE ²	UE ²	None	None
Saskatchewan	None	None	None	None
Manitoba ⁱⁱⁱ	None	IDE ⁷	None	IAE ⁸
Ontario ^{iv}	UE ^v , Hedger ^{vi}	IDE ^{vii}	None	IAE ^{viii}
Quebec ^{ix}	AC ^x	AC ¹⁰	AC ¹⁰	AC ¹⁰
New Brunswick	UE ²	UE ²	None	None
Nova Scotia	IDE ⁷	IDE ⁷	IAE ⁸	IAE ⁸
Prince Edward Island	IDE ⁷	IDE ⁷	IAE ⁸	IAE ⁸
Newfoundland and Labrador	IDE ⁷	IDE ⁷	IAE ⁸	IAE ⁸
Yukon Territory	IDE ⁷	IDE ⁷	IAE ⁸	IAE ⁸
Northwest Territories	IDE ⁷	IDE ⁷	IAE ⁸	IAE ⁸
Nunavut	IDE ⁷	IDE ⁷	IAE ⁸	IAE ⁸

UE – Unsolicited trade exemption Hedger – Hedging exemption AC – Accredited Counterparty – proposed
 IDE – International dealer exemption (NI 31-103) – new IAE – International adviser exemption (NI 31-103) – new

ⁱ Section 47(b) of the *Securities Act* (British Columbia) (“BCSA”) provides that the dealer registration requirement under subclause 34(1)(a) of the BCSA does not apply to “a trade [in exchange contracts] resulting from an unsolicited order placed with an individual who is not a resident of and does not carry on business in British Columbia.” “Individual” means a natural person.

ⁱⁱ Section 8.20(1)(a) of National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103) provides that in British Columbia, Alberta and New Brunswick, the dealer registration requirement does not apply in respect of a trade made “solely through an agent who is a registered dealer, if the dealer is registered in a category that permits the trade.” Section 8.20(b) of NI 31-103 provides that in British Columbia, Alberta and New Brunswick, the dealer registration requirement does not apply in respect of “a trade [in exchange contracts] resulting from an unsolicited order placed with an individual who is not a resident of, and does not carry on business in, the local jurisdiction.” “Individual” means a natural person. Section 4.9 of Companion Policy 45-106CP states that while an unsolicited trade does not require registration, if the individual conducts further trades in the future, that individual will be deemed to be carrying on business in the jurisdiction and will not be able to rely on this exemption.

ⁱⁱⁱ Trading in and advising on futures is governed by the *Commodity Futures Act* (Manitoba). Trading in and advising on security options is governed by the *Securities Act* (Manitoba).

^{iv} Trading in and advising on futures is governed by the *Commodity Futures Act* (Ontario) (CFA). Trading in and advising on security options is governed by the *Securities Act* (Ontario).

^v Section 32(c) of the CFA provides that “registration is not required in respect of a trade in a contract to be executed on an exchange situated outside Ontario resulting from an order placed with a dealer who does not carry on business in Ontario, not involving any solicitation by or on behalf of the dealer.”

^{vi} Section 32(a) of the CFA provides that registration is not required in respect of “a trade in a contract by a hedger through a dealer”.

^{vii} The IDE permits non-Canadian dealers to trade with “permitted clients” (including individuals who beneficially own financial assets having an aggregate realizable value that, before taxes, but net of any related liabilities, exceeds C\$5 million) in “foreign securities” (which excludes inter-listed securities of Canadian issuers) and certain Canadian debt securities.

^{viii} The IAE permits non-Canadian advisers to advise “permitted clients” on “foreign securities”, and to a very limited extent on Canadian securities where the advice is “incidental” to advising on foreign securities.

^{ix} Trading in and advising on futures and security options is governed by the *Derivatives Act* (Quebec) (QDA).

^xThe Proposed Quebec Regulation to the QDA provides an exemption for trades in exchange-traded derivatives with “accredited counterparties.” Specifically, section 11.14 of the Proposed Quebec Regulation states: “11.14. A person authorized to act as a dealer or adviser or authorized to exercise similar functions under legislation applicable in a jurisdiction outside Québec where its head office or principal place of business is located is exempt from the registration requirement to the extent it carries on business solely for an accredited counterparty and its activity involves a standardized derivative that is offered primarily outside Québec.”