

Registration Reform

IN CANADA
The Finish Line is Here

Section O of Stikeman Elliott's Report on Canada's New Registration Regime
JULY 2009

Trading or Advising in Commodity Futures



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Trading or Advising in Commodity Futures

In Manitoba and Ontario, trading in and advising with respect to investing in commodity futures contracts and options thereon, which are standardized exchange-traded instruments, are regulated under the Commodity Futures Acts of those jurisdictions. These statutes include dealer and adviser registration requirements, which generally are not affected by the new registration regime in the final proposal for National Instrument 31-103 *Registration Requirements and Exemptions* (31-103) and the related amendments to the provinces and territories' Securities Acts and other instruments and policies.

In Quebec, a new Derivatives Act that governs these types of instruments, as well as other types of derivatives, was recently enacted. See the discussion under the topic Quebec's Derivatives Act.

In Alberta, British Columbia, New Brunswick and Saskatchewan, trading and advising in "exchange contracts" which, like commodity futures contracts and options in Manitoba and Ontario, are standardized exchange-traded futures contracts, are or soon will be regulated under the Securities Acts in those provinces. The registration reform regime in 31-103 and related amendments will have some application to the dealer and adviser registration aspects of the regulation of exchange contracts under these statutes. In British Columbia, for example, the new category of restricted dealer will replace the category of exchange contracts dealer. Exchange contracts are expressly excluded for these four jurisdictions from the international dealer and the international adviser registration exemptions, with the result that dealers or advisers relying on those exemptions for their securities related activities in any of these jurisdictions could not rely on them for dealing or advising activity in respect of exchange contracts.

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Registration Reform in Canada:

The Finish Line is Here

Canada's new registration rule was published by the Canadian securities administrators in final form on July 17, 2009.

The new regime is expected to be in force September 28, 2009 with transition periods for implementation of aspects varying. The new regime, which has been several years in the making, is intended to harmonize, streamline and modernize registration requirements and exemptions across all Canadian jurisdictions. It regulates dealers and advisers, effectively eliminating the dealer registration exemption for trading in the exempt market in Canada, and imposes a new registration requirement for investment fund managers.

The new regime has significant implications for Canadian and non-Canadian market participants, particularly those now doing business on an unregistered or exempt basis.

This document is one part in a series that details the regime and its impact on particular types of market participants and their business activities. The complete document includes the following sections:

- A** Overview of Canada's New Registration Regime
- B** Impact on Limited Market Dealers and Unregistered Dealers Trading in the Exempt Market
- C** Impact on Investment Fund Managers
- D** Impact on Portfolio Managers and Investment Counsel
- E** Impact on International Dealers and Non-Canadian Dealers Trading in the Exempt Market
- F** Impact on International Advisers
- G** Impact on Investment Dealers and Mutual Fund Dealers
- H** Impact on Issuers Generally
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- J** Impact on Private Equity and Venture Capital Funds
- K** Impact on Non-Canadian Investment Funds Privately Placing Securities in Canada
- L** New Compliance Requirements for Registrants
- M** Registering in Multiple Jurisdictions
- N** Quebec's *Derivatives Act*
- O** Trading or Advising in Commodity Futures
- P** Useful Links

If you would like a copy of any of the other sections, in electronic or print format, please contact your Stikeman Elliott representative, email us at info@stikeman.com or visit our website at www.stikeman.com

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