

13.1.10 Request For Comments – Amendments to IDA Policy 6, Part 1 Regarding Proficiency Requirements for Futures Contract Portfolio Managers and Associate Futures Contract Portfolio Managers

**INVESTMENT DEALERS ASSOCIATION OF CANADA –
PROFICIENCY REQUIREMENTS FOR FUTURES CONTRACT PORTFOLIO MANAGERS AND
ASSOCIATE FUTURES CONTRACT PORTFOLIO MANAGERS**

I OVERVIEW

A Current Rules

Policy 6, Part I, Section A.6.2 contains the proficiency requirements for a futures contract portfolio manager.

Policy 6, Part I, Section A.6.4 contains the proficiency requirements for an associate futures contract portfolio manager.

B The Issue

When the current proficiency requirements for futures contracts and associate futures contracts portfolio were adopted there were no educational requirements included beyond those needed to obtain approval to trade in or advise on futures contracts.

The futures contract and associate futures contract portfolio manager requirements are inter—linked in a way that prevents firms that do not presently employ a futures contracts portfolio manager – of which there are very few currently approved – from entering the managed futures business.

The current account management experience requirement for a futures contract portfolio manager is an inadequate measure of actual experience.

C Objective

The objective of the rule change is to add an educational component to the proficiency requirements for futures contracts and associate futures contracts portfolio managers, to remove the barrier to entry caused by the inter-linking of the current requirements and to make the experience requirements relate directly to relevant experience in trading in or advising on futures contracts.

D Effect of Proposed Rules

The proposed amendments will increase the directly relevant educational attainments of futures contracts and associate futures contracts portfolio managers.

The proposed amendments will provide Members not already in the business with the opportunity to develop managed futures contracts programs using appropriately qualified and experienced personnel.

The proposed amendments will make the experience requirements for futures contracts and associate futures contracts portfolio managers directly relevant to the positions.

II DETAILED ANALYSIS

A Present Rules, Relevant History and Proposed Policy

Policy 6, Part I, Section A.6.2 contains the proficiency requirements for a futures contract portfolio manager: three years experience as an associate portfolio manager or two years as an associate portfolio manager and three years licensed to trade in or advise on futures contracts¹. It also requires a period of one year experience having commodity futures assets of at least \$5 million under management, with the value of assets computed on the value of the underlying commodities.

Policy 6, Part I, Section A.6.4 contains the proficiency requirements for an associate futures contract portfolio manager, including at least two years as a registered and practising futures contracts registered representative or as a research analyst specializing in futures contracts.

¹ In point of fact, the current regulation contains an outdated cross-reference to former section 1300.9B(b) of the Regulation,, which read: "is licensed, registered or otherwise designated or approved to trade or advise in futures contracts". The section was changed with amendments to the managed account provisions in Regulation 1300 effective January 26, 2004.

The current requirements were passed in 1994, at which time there were no higher level futures courses than those required to obtain approval to trade in futures contracts. The specific entry level educational requirement has changed to the Futures Licensing Course offered by the Canadian Securities Institute (CSI) and either the Derivative Fundamentals Course offered by the CSI or the National Commodity Futures Examination administered by the National Association of Securities Dealers Inc.

The CSI now offers additional courses leading to the Derivative Markets Specialist designation. To attain the designation, a candidate must complete five of 8 courses offered. Among the eight courses are the Derivatives Fundamentals Course and the Futures Licensing Course. The others courses are: the Options Licensing Course, Technical Analysis Course, Options Strategies Course, Energy Markets Risk Management Course, Financial Markets Risk Management Course and Agricultural Markets Risk Management Course. Only one of the licensing courses can be used towards the designation, hence a candidate for futures contract or associate futures contract portfolio manager, having the Futures Licensing Course as a requirement already, would not be able to use the Options Licensing Course.

The proposed rule makes either the Derivatives Market Specialist designation or the three levels of the Chartered Financial Analyst program offered by the CFA Institute a proficiency requirement to approval as a futures contract or associate futures contract portfolio manager. The CFA is a widely recognized qualification for portfolio managers. In addition, the proposed rule adds the Canadian Commodity Supervisors Examination as a proficiency requirement for futures contracts portfolio manager.

To be an associate futures contract portfolio manager, an individual must be supervised by a futures contract portfolio manager. To become a futures contract portfolio manager, one must go through a period as an associate futures contract portfolio manager. This constitutes a barrier to entry: a Member cannot have associate futures contracts portfolio managers without a futures contract portfolio manager to supervise them, and cannot have someone approved as a futures contract portfolio manager without their completing the required period as an associate futures contract portfolio manager.

As of June 14, 2005 there were a total of 17 futures contract portfolio managers and 6 associate futures contracts portfolio managers employed at 6 Members. All other Members are therefore prevented from entering the managed futures business unless they can hire one of the 17 futures contracts portfolio managers.

The proposed amendment changes the experience requirement for futures contract portfolio manager approval to either five years as an Approved Person in one of the categories of approval under Regulation 1800.3, which are a person approved to trade in or advise on futures contracts² or futures contract principal. As an alternative, the experience requirement can be met by three years in a category of approval under Regulation 1800.3 and two years as an associate futures portfolio manager.

The removal of an absolute requirement to undergo a period as an associate futures contract portfolio manager removes the linking that creates a barrier to entry. A Member wanting to enter the managed futures business can now apply for futures contract portfolio manager approval for a candidate who has five years experience actively trading in or advising on futures contracts.

The current account management experience requirement for a futures contract portfolio manager is assets under management of at least \$5 million, measured in terms of the value of the underlying commodities. This is equal to the value of the underlying commodities of 1 Chicago Board of Trade 30 Day Fed Funds Futures contract.

All of the experience requirements in the proposed amendments now require that the applicant has “been actively engaged in advising on trades in futures contracts” during the period of experience. They also require the experience to have ended no more than three years prior to the application. This latter provision is consistent with the other parts of Policy 6, Part I in which proficiency attainments are deemed to lapse in three years of disuse.

B Issues and Alternatives Considered

No alternatives have been considered.

C Comparison with Similar Provisions

The requirements in the United States for an Associated Person of a Commodities Trading Advisor are completion of the National Commodity Futures Examination.

² This can include persons in either of two categories: registered futures contracts representatives who are approved only to trade in or advise on futures contracts only, or registered representatives – futures contracts who are registered to trade in securities and futures contracts.

D Systems Impact of Rule

A minor adjustment will be required to the National Registration Database (“NRD”) to add the Derivatives Market Specialist Designation in the proficiencies list. As this requires only an update to an NRD table, this amendment can be scheduled for the next scheduled NRD version release after the effective date with no cost to the IDA.

E Best Interests of the Capital Markets

The Board has determined that the public interest Rule is not detrimental to the best interests of the capital markets.

F Public Interest Objective

The proposal is designed to ensure that persons managing commodity futures accounts are proficient to do so.

The proposal does not permit unfair discrimination among customers, issuers, brokers, dealers, members or others. It does not impose any burden on competition that is not necessary or appropriate in furtherance of the above purposes, but in fact relieves a burden on competition in the existing rules that is unnecessary.

III COMMENTARY

A Filing in Other Jurisdictions

These proposed amendments will be filed for approval in Alberta, British Columbia, Ontario and Quebec and will be filed for information in Nova Scotia and Saskatchewan.

B Effectiveness

This proposed change will retain appropriate proficiency requirements for commodity futures and associate commodity futures portfolio managers, while eliminating a barrier to entry for firms not already in the managed futures business.

C Process

The proposal was initially made to the Education and Proficiency Committee by the Derivatives Committee.

IV SOURCES

References:

- IDA Policy 6, Part II;
- IDA Regulation 1300.4;
- IDA Regulation 1800.3.

V OSC REQUIREMENT TO PUBLISH FOR COMMENT

The IDA is required to publish for comment the accompanying amendment.

The Association has determined that the entry into force of the proposed amendment would be in the public interest. Comments are sought on the proposed amendment. Comments should be made in writing. One copy of each comment letter should be delivered within 30 days of the publication of this notice, addressed to the attention of Larry Boyce, Investment Dealers Association of Canada, Suite 1600, 121 King Street West, Toronto, Ontario, M5H 3T9 and one copy addressed to the attention of the Manager of Market Regulation, Ontario Securities Commission, 20 Queen Street West, 19th Floor, Box 55, Toronto, Ontario, M5H 3S8.

Questions may be referred to:

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INVESTMENT DEALERS ASSOCIATION OF CANADA

THE BOARD OF DIRECTORS of the Investment Dealers Association of Canada (IDA) hereby makes the following amendments to the By-laws, Regulations, Forms and Policies of the Association:

1. Policy 6, Part I, Section A.6.2 is repealed and replaced as follows:

“6.2 The proficiency requirements for a futures contracts portfolio manager under Regulation 1300.12 are:

(a) Successful completion of

(i) The Canadian Commodity Supervisors Exam, the Futures Licensing Course (FLC) and the courses necessary to attain the Derivatives Market Specialist Designation; or

(ii) The Chartered Financial Analyst program administered by the CFA Institute; and

(b) Experience ending no earlier than three years prior to the date of application of:

(i) of at least 5 years as an Approved Person in one of the categories of futures contracts approval under Regulation 1800.3, or

(ii) of at least 3 years as an Approved Person in one of the categories of futures contracts approval under Regulation 1800.3 and two years as an associate futures contracts portfolio manager

during which periods the applicant shall have been actively engaged in advising on trades in or managing futures contracts accounts.”

2. Policy 6, Part I, Section A.6.4 is repealed and replaced as follows:

“6.4 The proficiency requirements for an associate futures contracts portfolio manager under Regulation 1300.13 are:

(a) Successful completion of

(i) The Futures Licensing Course and the courses necessary to attain the Derivatives Market Specialist Designation; or

(ii) The Chartered Financial Analyst program administered by the CFA Institute; and

(b) Experience ending no earlier than three years prior to the date of application of at least 3 years as an Approved Person in one of the categories of futures contracts approval under Regulation 1800.3, during which period the applicant shall have been actively engaged in advising on trades in futures contracts.”

PASSED AND ENACTED BY THE BOARD OF DIRECTORS this 26th day of June 2005, to be effective on a date to be determined by Association staff.