

1.1.4 Request for Comments - Proposed MI 33-109, Companion Policy 33-109CP, OSC Rule 33-506 and Companion Policy 33-506CP

Notice of Request for Comments

**Proposed Multilateral Instrument 33-109 and
Companion Policy 33-109CP -
Registration Information
Proposed Ontario Securities Commission
Rule 33-506 (*Commodity Futures Act*) and
Companion Policy 33-506CP -
Registration Information**

The Commission is publishing in today's Bulletin proposed Multilateral Instrument 33-109 and proposed Companion Policy 33-109CP: Registration Information and proposed OSC Rule 33-506 (*Commodity Futures Act*) and Companion Policy 33-506: Registration Information.

The Notices, Instrument, Rule and Companion Policies are published in Chapter 6 the Bulletin and at and <http://www.osc.gov.on.ca/en/HotTopics/nrd.html#expanded>.

6.1.7 Republication for Comment of Proposed OSC Rule 33-506 (*Commodity Futures Act*), Registration Information and Companion Policy 33-506CP, Registration Information

**Republication for Comment of Proposed
Ontario Securities Commission Rule 33-506 (*Commodity Futures Act*) Registration Information
and Companion Policy 33-506CP Registration Information**

Introduction

The Ontario Securities Commission (OSC) is republishing for comment proposed Ontario Securities Commission Rule 33-506 (*Commodity Futures Act*) Registration Information.

The proposed rule is expected to be adopted as a rule in Manitoba and Ontario.

Purpose

The purpose of the proposed rule is to consolidate and harmonize requirements regarding the initial submission of registration information and the updating of that information.

Background

On December 14, 2001, the OSC published for comment earlier drafts of the proposed rule and companion policy. During the comment period, we received 7 submissions. A summary of these comments, together with our responses, is contained in Appendix A to the notice Republication for Comment of Proposed Multilateral Instrument 33-109. After reviewing the comments and further considering the rule and companion policy, we are proposing a number of amendments to the 2001 drafts.

For additional background information on the proposed rule and companion policy as well as a detailed summary of the contents of the 2001 drafts, please refer to the notice that was published with those drafts.

Summary of Changes

This section describes the substantive changes made to the proposed rule and companion policy since the 2001 drafts were published for comment.

The definition of "business location" has been removed from the proposed rule and guidance with respect to its meaning has been added to the companion policy. The reason for this change is that it would be preferable to provide guidance in the companion policy on what is generally a well-understood term rather than attempt to define the term precisely in the rule.

The definition of "non-registered individual" has been amended to include branch managers. This is to ensure that Forms 33-109F4 will be submitted for branch managers in jurisdictions where the individual is not required to be a registered individual.

In subsection 6.1(1) of the proposed rule, the phrase "shall exercise due diligence" has been replaced with "must make reasonable efforts". The reason for this change is to describe the obligation on firms in plain language.

Subsection 6.1(4) of the 2001 draft has been removed. This subsection specified where records kept under Part 6 were to be located. Given that firms are otherwise required to maintain these records and ensure they are readily accessible, we agreed with commentators that mandating the location of the records is not necessary.

The proposed rule is scheduled to come into force on November 20, 2002, instead of September 1, 2002 as was proposed in the 2001 draft. This delay is to accommodate a second comment period. Given this delay the data transfer date (defined in Part 8 of the proposed rule) is scheduled to occur on November 4, 2002.

Several non-substantive changes have been made to the forms in response to comments made regarding the 2001 draft. These changes and the reasons for them are set out in Appendix A.

The 2001 draft of the companion policy contained a list of suggested enquiries that firms should make into in order to fulfill their obligation under subsection 6.1(1) of the proposed instrument to make reasonable efforts to ensure that a sponsored individual's submission is accurate. This list has been removed. The reason for this change is that what constitutes a reasonable effort will depend on the situation and on changing industry standards.

Request for Comments

Request for Comments

Interested parties are encouraged to make comments on the proposed rule and companion policy. Please submit your comments in writing on or before August 15, 2002.

Deliver your comments to the following address:

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 800, Box 55
Toronto, Ontario
M5H 3S8
jstevenson@osc.gov.on.ca

A diskette containing the submissions (in DOS or Windows format, preferably WordPerfect) should also be submitted. As securities legislation in certain provinces requires a summary of written comments received during the comment period be published, confidentiality of submissions cannot be maintained.

Questions

Please refer your questions to:

Dirk de Lint
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Ontario Securities Commission
(416) 593-8090
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The text of the proposed rule and companion policy follow.

DATED: June 14, 2002