

## Chapter 5

# Rules and Policies

---

---

### 5.1.1 Notice of Rule and Companion Policy under the Commodity Futures Act - OSC Rule 14-502 (Commodity Futures Act) and Companion Policy 14-502CP Designation of Additional Commodities

#### NOTICE OF RULE AND COMPANION POLICY UNDER THE COMMODITY FUTURES ACT

#### ONTARIO SECURITIES COMMISSION RULE 14-502 (COMMODITY FUTURES ACT) AND COMPANION POLICY 14-502CP DESIGNATION OF ADDITIONAL COMMODITIES

### 1. Background

The Commission has made OSC Rule 14-502 (Commodity Futures Act) Designation of Additional Commodities (Rule) and Companion Policy 14-502CP (Companion Policy).

The Rule was delivered to the Chair of Management Board of Cabinet on February 25, 2005. If the Minister does not approve, reject or return the Rule by April 26, 2005, or if the Minister approves the Rule, the Rule will come into force on May 16, 2005.

We published the Rule for comment on September 17, 2004 at (2004) 27 OSCB 7965. One comment letter was received from TSX Group. A summary of the comments received and our responses is attached as Appendix A to this notice.

We have made no changes to the Rule or Companion Policy in response to the comments received.

### 2. Substance and Purpose of Rule

Commodity-based exchange-traded derivatives products have evolved in a number of ways:

- The underlying products upon which exchange traded derivatives contracts are based are no longer limited to agricultural and basic financial products. Derivatives based on a number of new underlying assets have emerged in recent years. This has led to commodity futures exchanges offering commodity futures contracts and commodity futures options (together, contracts) based on commodities that are currently not listed under the CFA.
- Contracts that were once bilateral are now fungible, standardized and traded on commodity futures exchanges both in Canada and around the world. These products are becoming more popular and more easily accessible.
- When the CFA was introduced, most contracts were physically settled. However, many contracts that are now traded are cash settled in lieu of physical delivery.

The Rule designates as commodities underlying interests that form the basis of contracts now, or are anticipated to do so. The Rule updates the list of underlying assets that are considered to be commodities under the CFA and the Regulation in order to bring the list up-to-date in light of market evolution.

In addition, the Rule aims to clarify the Commission's view that commodities include an underlying interest that is a physical commodity as well as an interest that is valued with reference to any commodity, good, article, service, right or interest, or the relationship between, or any combination, thereof.

### 3. Regulation to be Amended

In conjunction with the making of Rule 14-502 as a rule in Ontario, the Commission has made an amendment to the Regulations made under the CFA (Regulation) deleting section 2 of the Regulation. The text of the amendment is attached to this notice as Appendix B.

The amendment to the Regulation is necessary and advisable to effectively implement the Rule. The amendment is subject to the approval of the Minister and will come into force upon the implementation of the Rule.

**Questions**

Please address any questions to:

Andrew Baker  
Derivatives Specialist, Market Regulation  
(416) 593-2324  
abaker@osc.gov.on.ca

Tracey Stern  
Senior Legal Counsel, Market Regulation  
(416) 593-8167  
tstern@osc.gov.on.ca

**APPENDIX A**

**Summary of Comments**

We received one comment letter from TSX group.

**Comment**

TSX submitted that the reference to “fuel” may be confusing, because section 1 of the CFA already refers to “hydrocarbon fuel”. They suggested that section 1.1(a) of the Rule be revised.

**Response**

The purpose of including “fuel” without qualification in the Rule is to capture a broad variety of fuels. These products would include hydrocarbon fuels, nuclear based fuels, and other types of fuel.

**APPENDIX B**

**Amendment to Regulation 90**

**ONTARIO REGULATION**

made under the

**COMMODITY FUTURES ACT**

Amending Reg. 90 of R.R.O. 1990

(General)

Note: Regulation 90 has previously been amended. Those amendments are listed in the Table of Regulations – Legislative History Overview which can be found at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca).

1. Section 2 of Regulation 90 of the Revised Regulations of Ontario, 1990 is revoked.
2. This Regulation comes into force on the day that the rule made by the Ontario Securities Commission on February 22, 2005 entitled “Ontario Securities Commission Rule 14-502 (Commodity Futures Act) **Designation of Additional Commodities**” comes into force.

Note: The rule made by the Ontario Securities Commission on February 22, 2005 entitled “Ontario Securities Commission Rule 14-502 (Commodity Futures Act) **Designation of Additional Commodities**” comes into force on May 16, 2005.