

5.1.4 Amendments to OSC Rule 31-502 – Proficiency Requirements for Registrants, OSC Rule 31-505 – Conditions of Registration and OSC Rule 35-502 – Non-Resident Advisers

AMENDMENTS TO OSC RULE 31-502 – PROFICIENCY REQUIREMENTS FOR REGISTRANTS, OSC RULE 31-505 – CONDITIONS OF REGISTRATION AND OSC RULE 35-502 – NON-RESIDENT ADVISERS

Amendments to Rule 31-502 – Proficiency Requirements for Registrants

1. Subsection 1.1 is amended by the deletion of “Examination” from the defined term “Chartered Financial Analyst Examination Program”.
2. Subsection 1.2(1) is amended by the deletion of the reference to Part 3 and by the addition of “or its equivalent in any other province or territory of Canada” after “previously registered in the relevant category”.
3. Subsection 1.2(2) is re-designated subsection 1.2(3) and amended by the deletion of both references to “subsection (1)” and their replacement with references to “subsections (1) and (2)”.
4. Section 1.2 is amended by the substitution of the following in place of the former subsection 1.2(2):
 - “(2) For the purposes of satisfying the course and examination requirements only of Part 3, an applicant for registration or reinstatement of registration must have
 - (a) completed a specified course or examination not more than three years before the date of the applicant’s application for registration or reinstatement;
 - (b) been previously registered in the relevant category or its equivalent in any other province or territory of Canada at any time during the three-year period immediately before the date of the applicant’s application for registration or reinstatement of registration; or
 - (c) having completed the specified course or examination more than three years before the date of the applicant’s application for registration or reinstatement, been employed by a Canadian financial institution or pension fund in the performance of research involving the financial analysis of investments or in the management or supervision of investment portfolios on a discretionary basis, at any time during the three-year period immediately before the date of the applicant’s application for registration or reinstatement of registration.”
5. The title of section 3.1 is amended by the deletion of “and Compliance Officers”, which is replaced with “, Chief Compliance Officers and Ultimately Responsible Persons”.
6. Subparagraph 3.1(1)(b)(i) is amended by the deletion of “the first year”, which is replaced with “Level 1”, and by the deletion of “Canadian”, which is replaced with “Chartered”, and the deletion of “Examination”.
7. Subparagraph 3.1(1)(c) is deleted and the punctuation of paragraph 3.1(1)(b) adjusted accordingly.
8. Subsection 3.1(2) is re-designated subsection 3.1(3) and amended by the deletion of “as the compliance officer under section 1.3 of Rule 31-505 Conditions of Registration or”.
9. Section 3.1 is amended by the substitution of the following in place of the former subsection 3.1(2):
 - “(2) An individual shall not be designated by a securities adviser as the chief compliance officer under section 1.3 of Rule 31-505 Conditions of Registration unless the individual
 - (a) has been granted registration previously as a representative, partner or officer of a securities adviser, investment counsel or portfolio manager;
 - (b) has
 - (i) obtained professional designation as a lawyer or Chartered Accountant in a Canadian jurisdiction or the equivalent in a foreign jurisdiction and is in good standing with the appropriate self-regulatory body or regulatory agency;
 - (ii) completed the Canadian Securities Course and the Partners, Directors and Senior Officers Qualifying Examination; and

- (iii) either
 - (A) been employed for three years by a registered dealer or a registered adviser; or
 - (B) been providing professional services to the securities industry for three years and employed by a registered dealer or registered adviser for one year; or
- (c) has
 - (i) completed the Canadian Securities Course and the Partners, Directors and Senior Officers Qualifying Examination; and
 - (ii) either
 - (A) been employed for five years by a registered dealer or a registered adviser, including three years under the supervision of the designated or chief compliance officer of a registered dealer or a registered adviser; or
 - (B) been employed for five years by a financial intermediary regulated by the federal Office of the Superintendent of Financial Institutions in a compliance capacity relating to portfolio management and employed by a registered dealer or registered adviser for one year;

provided that an individual designated as chief compliance officer pursuant to paragraph (b) or (c) shall not act as an adviser.”

10. The title of section 3.2 is amended by the deletion of “and Compliance Officers”, which is replaced with “, Chief Compliance Officers and Ultimately Responsible Persons”.
11. Subparagraph 3.2(1)(b)(i) is amended by the deletion of “the first year”, which is replaced with “Level 1”, and by the deletion of “Examination”, which appears twice.
12. Subparagraph 3.2(1)(d) is deleted and the punctuation of subparagraph 3.2(1)(c)(ii) adjusted accordingly.
13. Subsection 3.2(2) is re-designated subsection 3.2(3) and amended by the deletion of “as the compliance officer under section 1.3 of Rule 31-505 Conditions of Registration or”.
14. Section 3.2 is amended by replacement of the former subsection 3.2(2) with the following:
 - “(2) An individual shall not be designated by an investment counsel or portfolio manager as the chief compliance officer under section 1.3 of Rule 31-505 Conditions of Registration unless the individual
 - (a) has been granted registration previously as a representative, partner or officer of an investment counsel or portfolio manager, other than in reliance on section 3.3 or under a registration subject to terms and conditions requiring the individual’s advising activities to be supervised, or as an investment counsel or portfolio manager;
 - (b) has
 - (i) obtained professional designation as a lawyer or Chartered Accountant in a Canadian jurisdiction or the equivalent in a foreign jurisdiction and is in good standing with the appropriate self-regulatory body or regulatory agency;
 - (ii) completed the Canadian Securities Course and the Partners, Directors and Senior Officers Qualifying Examination; and
 - (iii) either
 - (A) been employed for three years by a registered dealer or a registered adviser; or
 - (B) been providing professional services to the securities industry for three years and employed by a registered dealer or registered adviser for one year; or

- (c) has
 - (i) completed the Canadian Securities Course and the Partners, Directors and Senior Officers Qualifying Examination; and
 - (ii) either
 - (A) been employed for five years by a registered dealer or a registered adviser, including three years under the supervision of the designated or chief compliance officer of a registered dealer or a registered adviser; or
 - (B) been employed for five years by a financial intermediary regulated by the federal Office of the Superintendent of Financial Institutions in a compliance capacity relating to portfolio management and employed by a registered dealer or registered adviser for one year;

provided that an individual designated as chief compliance officer pursuant to paragraph (b) or (c) shall not act as an adviser.”

- 15. Subsection 3.3(3) is amended by the addition of the word “registered” after “shall designate a”.
- 16. Subsection 3.3(4) is amended by the addition of the word “registered” after “the designated”.
- 17. Part 3 is amended by the addition of the following section 3.4:
 - “3.4 New Entrants Equivalency – In this Part, an individual may meet a requirement to complete the Canadian Securities Course by completion of the New Entrants Examination and the U.S. Series 7 Examination.”

Amendments to Rule 31-505 – Conditions Of Registration

- 18. The title of section 1.3 is amended by the addition of “or Chief Compliance Officer and Ultimately Responsible Person” after “Compliance Officer”.
- 19. Subsection 1.3(1) is re-designated paragraph 1.3(1)(a) and amended by the deletion of “or adviser”, which appears twice.
- 20. Subsection 1.3(2) is re-designated paragraph 1.3(1)(b) and amended by the deletion of “or adviser”, the deletion of “and supervising advice provided to each client” and the replacement of the reference to “subsection (1)” with a reference to “paragraph (a)”.
- 21. Subsection 1.3(3) is re-designated paragraph 1.3(1)(c) and amended by the deletion of “or an officer in the same category of registration as the adviser,” and the deletion of “in each case” and the replacement of the references to “subsections (1) and (2)” with references to “paragraphs (a) and (b)”.
- 22. Subsection 1.3(4) is re-designated paragraph 1.3(1)(d) and amended by the deletion of “or adviser” and the replacement of the reference to “subsection (1)” with a reference to “paragraph (a).”
- 23. Section 1.3 is amended by the addition of the following subsection 1.3(2):
 - “(2) (a) A registered adviser shall designate an executive officer as the individual who is ultimately responsible for discharging the obligations of the registered adviser under Ontario securities law.
 - (b) “Executive officer” means for purposes of paragraph (a) a registered partner or registered officer who is,
 - (i) president, chief executive officer, chief financial officer, secretary, general counsel or general manager of the registered adviser or any other individual who performs functions for it which are similar to those normally performed by an individual occupying any such office, or
 - (ii) one of the five highest paid partners or officers of the registered adviser.

- (c) The ultimately responsible person designated under paragraph (a) shall ensure that policies and procedures for the discharge of the obligations of the registered adviser under Ontario securities law are developed and implemented.
- (d) A registered adviser shall also designate a partner or officer as the chief compliance officer who shall either be the same individual as the ultimately responsible person designated under paragraph (a) or shall report to that individual.
- (e) The chief compliance officer designated under paragraph (d) shall supervise the registered adviser's adherence to the policies and procedures referred to in paragraph (c) and shall also be responsible for supervising the opening of each new account and supervising advice provided to each client or, if a branch manager is designated under subsection 1.4(1), for supervising the branch manager's conduct of the activities specified in subsection 1.4(2).
- (f) The ultimately responsible person designated under paragraph (a) shall report directly to the board of directors or partnership annually concerning the discharge of the obligations of the registered adviser under Ontario securities law and shall have a right to directly access the board of directors or partnership at such other times as he or she may deem necessary or advisable.
- (g) An applicant for registration or reinstatement of registration as an adviser shall deliver to the Commission, with the application, written notice of the name of the person or persons proposed to be designated under paragraphs (a) and (d)."

24. Subsection 1.4(2) is amended by the deletion of "section 1.3" and its replacement with "paragraph 1.3(1)(a) in the case of a dealer and the chief compliance officer designated under paragraph 1.3(2)(d) in the case of an adviser."

Amendments to Rule 35-502 – Non-Resident Advisers

25. Part 3 is amended by the addition of the following section 3.14:

"Partial Exemption from Rule 31-505 – An international adviser is exempt from subsection 1.3(1) of Rule 31-505."