



THE MANITOBA
SECURITIES
COMMISSION

MSC Notice 2013-49

Proclamation of Amendments to *The Securities Act* and Transitional matters relating to the regulation of Derivatives under the Act

The Manitoba Securities Commission (Commission or MSC) is publishing this Notice to provide an update with respect to amendments being made to *The Securities Act* (the Act) which come into force on December 31, 2013. These amendments are contained in S.M. 2012, c.12 which can be found at the following link:

<http://web2.gov.mb.ca/laws/statutes/2012/c01212e.php>

The amendments to the Act that come into force on December 31, 2013¹ include authority to regulate over-the-counter derivatives. This includes authority over the trading and advising in derivatives as well as the recognition of clearing agencies and trade repositories. Amendments are also being made to the French version of the Act to ensure consistency of expression.

The trading and advising in the trading of exchange traded futures and options contracts continues to be regulated by the Commission pursuant to powers contained in *The Commodity Futures Act*.

Designation of Derivatives

Section 1(1.5) of the amended Act provides authority to the Commission to make an order designating a contract or instrument or class of contracts or instruments as a derivative or designated derivative for the purpose of the Act. The Commission has not issued orders under this section and has no orders under consideration at this time.

¹ Sections 1, 40, 44, 49(c) & 53 of S.M. 2012, c.12 which do not involve the regulation of derivatives came into effect on June 14, 2012. The amendments that came into force in 2012 permit alternate disclosure for mutual funds as well as amendments to the limitation period for persons seeking to commence lawsuits on the basis of secondary market disclosure.

As no designation order has been issued by the Commission the requirement for a Disclosure Document contained in section 79.1 of the Act currently has no application.

Derivatives Rules

The Commission continues to work with other members of The Canadian Securities Administrators (CSA) on rules for the regulation of derivatives. The CSA Derivatives Committee has published (and will be publishing) a series of Concept Papers. Model Rules have also been published for comment.

On November 14, 2013 the Commission published the following rules which will come into force on December 31, 2013:

MSC Notice 2013-41 - MSC Notice of Manitoba Securities Commission Rules 91-506 Derivatives: Product Determination and 91-507 Trade Repositories And Derivatives Data Reporting

http://www.msc.gov.mb.ca/legal_docs/legislation/notices/91_506_507_notice_package.pdf

Clearing Agencies - Blanket Order

The Commission published for comment a Model Rule for the regulation of Clearing Agencies on December 12, 2013. Until such time as the Commission has put into force rules for the regulation of Clearing Agencies a blanket order has been issued by the Commission exempting Clearing Agencies from the requirement to be recognized that is contained in section 31.7 of the amended Act. This blanket order will be in effect until such time as a rule is implemented to regulate the recognition of clearing agencies that carry on business in Manitoba.

The order can be found at the following link:

http://www.msc.gov.mb.ca/legal_docs/orders/6859_clearing_agency_bo.html

Registration Requirements

The CSA Derivatives Committee published a concept paper on the topic of registration on April 18, 2013. Comments made to the Committee following this publication are currently under review by the Committee and will be the subject of a Model Rule which is expected to be published in 2014.

The requirements of National Instrument 31-103 will continue to apply. For the purposes of the trading and advising in the trading of derivatives firms and individuals must continue to be registered in the category of Investment Dealer. The requirements imposed by Investment Industry Regulatory Association of Canada (IIROC) will continue to apply.

Other matters

Other sections of the Act amendments are largely permissive in nature and do not impose mandatory requirements that require further blanket relief at this time. However, Commission staff will continue to monitor the impact of the amended Act on the market to determine if other blanket orders or other forms of relief are required.

Commission staff are also prepared to consider applications under section 20(1) for specific orders exempting a market participant from a requirement contained in the amended Act if the market participant can demonstrate the granting of such an order would not be prejudicial to the public interest.

Further Notices will be issued in the event further blanket orders are issued or the existing orders are amended or revoked.

Questions may be referred to:

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December 18, 2013



THE SECURITIES ACT)
)
 Subsection 20(1))

Order No. 6859

December 17, 2013

BLANKET ORDER

**EXEMPTION FROM REQUIREMENT FOR A CLEARING
AGENCY TO BE RECOGNIZED PURSUANT TO SECTION 31.7
OF THE SECURITIES ACT**

WHEREAS:

(A) An application has been made by Staff to The Manitoba Securities Commission (the "Commission") for an Order under Section 20(1) of The Securities Act (the "Act") granting an exemption from the requirement that a Clearing Agency be recognized by the Commission pursuant to Section 31.7 of the Act.

(B) Background:

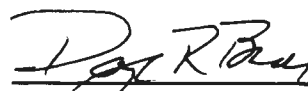
- (1) The Act is being amended to put into force on December 31, 2013 a requirement that a Clearing Agency be recognized in writing by the Commission in order to conduct business in Manitoba.
- (2) The Commission, along with other members of the Canadian Securities Administrators are currently developing a Rule which will set out both the process for recognition and continuing requirements to maintain recognition by a Clearing Agency (the "CSA Rule").
- (3) The Commission is of the view that the CSA Rule will provide the necessary standards for the application of the requirement for recognition of a Clearing Agency pursuant to Section 31.7 of the Act and that enforcing this provision prior to conclusion of the CSA Rule would be disruptive to the markets and not in the public interest.

(C) The Commission is of the opinion that it would not be prejudicial to the public interest to grant the order requested.

IT IS ORDERED:

1. **THAT**, under section 20(1) of the Act, the requirement for a Clearing Agency to be recognized by the Commission to carry on business in Manitoba contained in section 31.7 of the Act, does not apply to a Clearing Agency provided that the Clearing Agency is in compliance with the laws of the jurisdiction in which it is located to carry on business as a clearing agency.

2. **THAT** this Order takes effect on December 31, 2013.

BY ORDER OF THE COMMISSION

Director