[Français](http://www.ontario.ca/fr/lois/loi/90c20)

Commodity Futures Act

R.S.O. 1990, Chapter C.20

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Definitions

**1** (1)  In this Act,

“adviser” means a person or company engaging in or holding himself, herself or itself out as engaging in the business of advising others as to trading in contracts; (“conseiller”)

“benchmark” means a price, estimate, rate, index or value that is,

(a) determined, from time to time, by reference to an assessment of one or more underlying interests,

(b) made available to the public, either free of charge or on payment, and

(c) used for reference for any purpose, including,

(i) determining the interest payable, or other sums that are due, under a contract, derivative, instrument or security,

(ii) determining the value of a contract, derivative, instrument or security or the price at which it may be traded,

(iii) measuring the performance of a contract, derivative, investment fund, instrument or security, or

(iv) any other use by an investment fund; (“indice de référence”)

“benchmark administrator” means a person or company that administers a benchmark; (“administrateur d’indice de référence”)

“benchmark contributor” means a person or company that engages or participates in the provision of information for use by a benchmark administrator for the purpose of determining a benchmark, including a person or company subject to a decision under section 21.6; (“contributeur à un indice de référence”)

“benchmark user” means a person or company that, in relation to a contract, derivative, investment fund, instrument or security, uses a benchmark; (“utilisateur d’indice de référence”)

“Capital Markets Tribunal” means the Capital Markets Tribunal established under section 25 of the Securities Commission Act, 2021; (“Tribunal des marchés financiers”)

“Chief Adjudicator” means the Chief Adjudicator of the Capital Markets Tribunal; (“arbitre en chef”)

“clearing house” means an association or organization, whether incorporated or unincorporated, or part of a commodity futures exchange through which trades in contracts entered into on such exchange are cleared; (“chambre de compensation”)

“Commission” means the Ontario Securities Commission continued under the Securities Commission Act, 2021; (“Commission”)

“commodity” means, whether in the original or a processed state, any agricultural product, forest product, product of the sea, mineral, metal, hydrocarbon fuel, currency or precious stone or other gem, and any goods, article, service, right or interest, or class thereof, designated as a commodity under the regulations; (“marchandise”)

“commodity futures contract” means a contract to make or take delivery of a specified quantity and quality, grade or size of a commodity during a designated future month at a price agreed upon when the contract is entered into on a commodity futures exchange pursuant to standardized terms and conditions set forth in such exchange’s by-laws, rules or regulations; (“contrat à terme sur marchandises”)

“commodity futures exchange” means an association or organization, whether incorporated or unincorporated, operated for the purpose of providing the facilities necessary for the trading of contracts; (“bourse de contrats à terme sur marchandises”)

“commodity futures option” means a right, acquired for a consideration, to assume a long or short position in relation to a commodity futures contract at a specified price and within a specified period of time and any other option of which the subject is a commodity futures contract; (“option sur contrat à terme sur marchandises”)

“company” means any corporation, incorporated association, incorporated syndicate or other incorporated organization; (“compagnie”)

“contract” means any commodity futures contract and any commodity futures option; (“contrat”)

“dealer” means a person or company that trades in contracts in the capacity of principal or agent; (“courtier”)

“decision” means, in respect of a decision of the Commission, the Tribunal or a Director, a direction, decision, order, ruling or other requirement made under a power or right conferred by this Act or the regulations; (“décision”)

“declaration date”, where used in relation to a commodity futures option, means the date on which the option expires; (“date d’échéance”)

“designated benchmark” means a benchmark that is designated by the Commission under section 21.5; (“indice de référence désigné”)

“designated benchmark administrator” means a benchmark administrator that is designated by the Commission under section 21.5 in respect of a designated benchmark; (“administrateur d’indice de référence désigné”)

“Director” means the Chief Executive Officer of the Commission, the Executive Director of the Commission, a Director or Deputy Director of the Commission or a person employed by the Commission in a position designated by the Chief Executive Officer of the Commission for the purpose of this definition; (“directeur”)

“director” means a director of a company or an individual performing a similar function or occupying a similar position for any person; (“administrateur”)

“floor trader” means an individual who is employed by a dealer for the purpose of entering into contracts on the floor of a commodity futures exchange on behalf of such dealer; (“négociateur en bourse”)

“hedger” means a person or company who carries on agricultural, mining, forestry, processing, manufacturing or other commercial activities and, as a necessary part of these activities, becomes exposed from time to time to a risk attendant upon fluctuations in the price of a commodity and offsets that risk through trading in contracts for the commodity or related commodities whether or not any particular trade is effected for that purpose, but a person or company is a hedger only as to trades in contracts for such commodity or related commodities; (“arbitragiste en couverture”)

“investment fund” means a mutual fund or a non-redeemable investment fund; (“fonds d’investissement”)

“liquidating trade” means effecting settlement of a commodity futures contract,

(a) in relation to a long position, by assuming an offsetting short position in relation to a contract entered into on the same commodity futures exchange for a like quantity and quality, grade or size of the same commodity deliverable during the same designated future month,

(b) in relation to a short position, by assuming an offsetting long position in relation to a contract entered into on the same commodity futures exchange for a like quantity and quality, grade or size of the same commodity deliverable during the same designated future month; (“liquidation”)

“long position”, where used in relation to a commodity futures contract, means to be under an obligation to take delivery; (“position acheteur”)

“market participant” means a registrant, a person or company exempted from the requirement to be registered under this Act, a recognized clearing house, a registered commodity futures exchange, a recognized commodity futures exchange, a recognized self-regulatory organization, a person or company that is exempt from the requirement under subsection 16 (1) or 17 (1) to be recognized by the Commission, the Canadian Investor Protection Fund, the Toronto Futures Exchange Contingency Fund, the general partner of a market participant, a designated benchmark administrator, a person or company that engages or participates in the provision of information for use by a benchmark administrator for the purpose of determining a designated benchmark or any other person or company or member of a class of persons or companies designated by the regulations; (“participant au marché”)

“Minister” means the Minister of Finance or other member of the Executive Council to whom the administration of this Act may be assigned; (“ministre”)

“misrepresentation” means,

(a) an untrue statement of material fact, or

(b) an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made; (“présentation inexacte des faits”)

“mutual fund” means an issuer whose primary purpose is to invest money provided by its security holders and whose securities entitle the holder to receive, on demand or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in part of the net assets, including a separate fund or trust account, of the issuer; (“fonds mutuel”)

“non-redeemable investment fund” means an issuer,

(a) whose primary purpose is to invest money provided by its security holders,

(b) that does not invest,

(i) for the purpose of exercising or seeking to exercise control of an issuer, other than an issuer that is a mutual fund or a non-redeemable investment fund, or

(ii) for the purpose of being actively involved in the management of any issuer in which it invests, other than an issuer that is a mutual fund or a non-redeemable investment fund, and

(c) that is not a mutual fund; (“fonds d’investissement à capital fixe”)

“officer” means the chair or any vice-chair of the board of directors, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer or general manager of a company, or any other person designated an officer of a company by by-law or similar authority, or any individual acting in a similar capacity on behalf of a registrant; (“dirigeant”)

“Ontario commodity futures law” means,

(a) this Act,

(b) the regulations, and

(c) in respect of a person or company, a decision of the Commission, the Tribunal or a Director to which the person or company is subject; (“droit ontarien des contrats à terme sur marchandises”)

“open commodity futures contract” means an outstanding obligation under a commodity futures contract for which settlement has not been effected by the tender and receipt of the commodity or of an instrument evidencing title or the right to such commodity or by a liquidating trade; (“contrat à terme sur marchandises en cours”)

“open interest”, where used in relation to commodity futures contracts, means the total outstanding long positions or the total outstanding short positions, for each delivery month and in aggregate, in commodity futures contracts relating to a particular commodity entered into on a commodity futures exchange; (“intérêts en cours”)

“person” means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator, or other legal representative; (“personne”)

“premium”, where used in relation to a commodity futures option, means the consideration for which the option is acquired; (“prix de l’option”)

“recognized clearing house” means a clearing house recognized by the Commission under subsection 17 (1); (‘‘chambre de compensation reconnue”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “recognized clearing house” in subsection 1 (1) of the Act is amended by striking out “subsection 17 (1)” and substituting “subsection 17 (2)”. (See: 2017, c. 8, Sched. 5, s. 1)

“recognized commodity futures exchange” means a person or company that is recognized by the Commission as a commodity futures exchange under this Act or that is exempted from the requirement to be recognized; (“bourse reconnue de contrats à terme sur marchandises”)

“recognized self-regulatory organization” means a self-regulatory organization recognized by the Commission under subsection 16 (1); (“organisme d’autoréglementation reconnu”)

“registered commodity futures exchange” means a person or company that is registered by the Commission as a commodity futures exchange under this Act; (“bourse inscrite de contrats à terme sur marchandises”)

“registrant” means a person or company registered or required to be registered under this Act; (“personne ou compagnie inscrite”)

“regulations” means the regulations made under this Act and, unless the context otherwise indicates, includes the rules; (“règlements”)

“rules” means,

(a) the rules made under section 65, and

(b) the orders and rulings listed in the Schedule to this Act; (“règles”)

“salesperson” means an individual who is employed by a dealer for the purpose of making trades in contracts on behalf of such dealer; (“représentant”)

“security” means a security within the meaning of the Securities Act; (“valeur mobilière”)

“self-regulatory organization” means a person or company that represents registrants and is organized for the purpose of regulating the operations and standards of practice and business conduct of its members and their representatives with a view to promoting the protection of investors and the public interest; (“organisme d’autoréglementation”)

“settlement price”, where used in relation to a commodity futures contract, means the price which is used by a commodity futures exchange or its clearing house to determine, daily, the net gains or losses in the value of open commodity futures contracts; (“cours”)

“short position”, where used in relation to a commodity futures contract, means to be under an obligation to make delivery; (“position vendeur”)

“striking price”, where used in relation to a commodity futures option, means the price at which the purchaser of the option has the right to assume a long or short position in relation to the commodity futures contract that is the subject of the option; (“prix de levée”)

“trade” or “trading” includes,

(a) entering into contracts, whether as principal or agent,

(b) acting as a floor trader,

(c) any receipt by a registrant of an order to effect a transaction in a contract,

(d) any assignment or other disposition of rights under a contract except a disposition arising from the death of an individual enjoying rights under a contract, and

(e) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of the foregoing; (“opération”)

“Tribunal” means the Capital Markets Tribunal. (“Tribunal”) R.S.O. 1990, c. C.20, s. 1; 1999, c. 9, s. 22 (1-4); 2014, c. 7, Sched. 5, s. 1; 2017, c. 34, Sched. 7, s. 1; 2018, c. 17, Sched. 7, s. 1; 2021, c. 8, Sched. 9, s. 39 (1-7).

Same

(2)  For the purposes of this Act, the regulations and the rules, any of “future-oriented financial information” and “non-redeemable investment fund” may be defined in the regulations or the rules and if so defined shall have the defined meaning. 1999, c. 9, s. 22 (5).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 21 - 14/12/1999; 1999, c. 9, s. 22 (1-5) - 14/12/1999

[2014, c. 7, Sched. 5, s. 1 (1, 2)](http://www.ontario.ca/laws/statute/S14007" \l "sched5s1s1) - 24/07/2014

[2017, c. 8, Sched. 5, s. 1](http://www.ontario.ca/laws/statute/S17008" \l "sched5s1) - not in force; [2017, c. 34, Sched. 7, s. 1](http://www.ontario.ca/laws/statute/S17034" \l "sched7s1) - 14/12/2017

[2018, c. 17, Sched. 7, s. 1 (1-3)](http://www.ontario.ca/laws/statute/S18017" \l "sched7s1s1) - 06/12/2018

[2021, c. 8, Sched. 9, s. 39 (1-7)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s1) - 29/04/2022

Purposes

**1.1**  (1)  The purposes of this Act are,

(a) to provide protection to investors from unfair, improper or fraudulent practices;

(b) to foster fair, efficient and competitive commodity futures markets and confidence in those markets;

(b.1) to foster capital formation; and

(c) to contribute to the stability of the financial system and the reduction of systemic risk. 1999, c. 9, s. 23; 2017, c. 34, Sched. 7, s. 2; 2021, c. 8, Sched. 9, s. 39 (8).

Principles to consider

(2)  In pursuing the purposes of this Act, the Commission shall have regard to the following fundamental principles:

1. Balancing the importance to be given to each of the purposes of this Act may be required in specific cases.

2. The primary means for achieving the purposes of this Act are,

i. requirements for timely, accurate and efficient disclosure of information,

ii. restrictions on fraudulent and unfair market practices and procedures, and

iii. requirements for the maintenance of high standards of fitness and business conduct to ensure honest and responsible conduct by market participants.

3. Effective and responsive commodity futures regulation requires timely, open and efficient administration and enforcement of this Act by the Commission.

4. The Commission should, subject to an appropriate system of supervision, use the enforcement capability and regulatory expertise of recognized self-regulatory organizations.

5. The integration of commodity futures markets is supported and promoted by the sound and responsible harmonization and co-ordination of commodity futures regulation regimes.

6. Business and regulatory costs and other restrictions on the business and investment activities of market participants should be proportionate to the significance of the regulatory objectives sought to be realized.

7. Innovation in Ontario’s commodity futures markets should be facilitated. 1999, c. 9, s. 23; 2019, c. 7, Sched. 10, s. 1.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 23 - 14/12/1999

[2017, c. 34, Sched. 7, s. 2](http://www.ontario.ca/laws/statute/S17034" \l "sched7s2) - 14/12/2017

[2019, c. 7, Sched. 10, s. 1](http://www.ontario.ca/laws/statute/S19007" \l "sched10s1) - 29/05/2019

[2021, c. 8, Sched. 9, s. 39 (8)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s8) - 27/04/2021

**PART I** (s. 2) Repealed: 2011, c. 9, Sched. 5, s. 1.

**2.**

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 21 - 14/12/1999

[2002, c. 18, Sched. H, s. 1 (1, 2)](http://www.ontario.ca/laws/statute/S02018" \l "schedhs1s1) - 26/11/2002

[2011, c. 9, Sched. 5, s. 1](http://www.ontario.ca/laws/statute/S11009" \l "sched5s1) - 12/05/2011

Part I.1  
Commission

Responsibility for administration of Act

**2.1**(1)  The Commission is responsible for the administration of this Act. 1999, c. 9, s. 24.

(2)  Repealed: 2021, c. 8, Sched. 9, s. 39 (9).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 24 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (9)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s9) - 29/04/2022

Authority in extraordinary circumstances

Notice to Minister

**2.2**(1)  The Commission shall notify the Minister if, in its opinion, there are extraordinary circumstances that may require immediate action to be taken under this section in the public interest. 2009, c. 18, Sched. 6, s. 1.

Criteria

(2)  For the purposes of this section, each of the following events constitutes extraordinary circumstances:

1. A major market disturbance characterized by or constituting sudden fluctuations of commodity prices or contract prices that threaten fair and orderly commodity futures markets.

2. A major market disturbance characterized by or constituting a substantial disruption in the system for clearance and settlement of transactions.

3. A major disruption in the functioning of commodity futures markets or of a significant segment of the markets.

4. A major disruption in the transmission, execution or processing of transactions in contracts or commodities.

5. A substantial threat of such a major market disturbance or major disruption. 2009, c. 18, Sched. 6, s. 1; 2009, c. 33, Sched. 16, s. 2 (1).

Order to revoke, suspend

(3)  The Commission may, without notice or a hearing, make an order under this section that the acceptance of a form of contract be revoked or that all trading on any registered commodity futures exchange or otherwise be suspended,

(a) if, in the opinion of the Commission, there are extraordinary circumstances requiring immediate action to be taken in the public interest; and

(b) if, in the opinion of the Commission, the order is necessary to maintain or restore fair and orderly commodity futures markets, to ensure prompt, accurate and safe clearance and settlement of transactions in contracts or commodities or to assist in doing so in another jurisdiction. 2009, c. 18, Sched. 6, s. 1.

Terms and conditions

(4)  The order may be subject to such terms and conditions as the Commission may impose. 2009, c. 18, Sched. 6, s. 1.

Duration of order

(5)  The order takes effect immediately and expires no later than 10 days after the day on which it is made. 2009, c. 18, Sched. 6, s. 1.

Notice and publication of order

(6)  The Commission shall promptly issue a news release describing the details of the order and shall publish the order in its Bulletin. 2009, c. 18, Sched. 6, s. 1.

Opportunity to be heard

(7)  The Commission shall give an opportunity to be heard to persons and companies who are directly affected by the order and who consider themselves aggrieved by it, and the opportunity to be heard may be oral or in writing in the discretion of the Commission. 2009, c. 18, Sched. 6, s. 1.

Revocation or variation of order

(8)  The Commission may make an order revoking or varying the order under subsection (3), but cannot vary it to provide for an expiry later than the date specified in subsection (5). 2009, c. 18, Sched. 6, s. 1.

Commission regulation

(9)  Subject to the approval of the Minister, the Commission may make a regulation relating to any matter governed by Ontario commodity futures law, despite any other provision of this Act,

(a) if, in the opinion of the Commission, there are extraordinary circumstances requiring immediate action to be taken in the public interest; and

(b) if, in the opinion of the Commission, the regulation is necessary to maintain or restore fair and orderly commodity futures markets, to ensure prompt, accurate and safe clearance and settlement of transactions in contracts or commodities or to assist in doing so in another jurisdiction. 2009, c. 18, Sched. 6, s. 1.

Same

(10)  The Commission is not precluded from making a regulation under subsection (9) that has substantially the same effect as an order previously made under subsection (3) in respect of the same extraordinary circumstances. 2009, c. 18, Sched. 6, s. 1.

Duration of regulation

(11)  Upon being approved by the Minister, the regulation comes into force immediately, despite section 22 of the Legislation Act, 2006, and it is revoked no later than 30 days after the day on which it comes into force. 2009, c. 18, Sched. 6, s. 1.

Extension of duration of regulation

(12)  Despite subsection (11), an amendment to the regulation may provide that it remains in effect for a further period of up to 30 days, and the regulation may be so amended more than once. 2009, c. 18, Sched. 6, s. 1.

Notice and publication of regulation

(13)  When the regulation comes into force, the Commission shall promptly issue a news release describing the details of the regulation and shall publish the regulation in its Bulletin together with a statement setting out the substance and purpose of the regulation and the nature of the extraordinary circumstances. 2009, c. 18, Sched. 6, s. 1.

Same, amendment of regulation

(14)  Subsection (13) applies, with necessary modifications, with respect to any amendment to the regulation. 2009, c. 18, Sched. 6, s. 1.

Additional information

(15)  As soon as practicable after the regulation comes into force, the Commission shall publish in its Bulletin a description of the particular circumstances upon which the Commission based its decision to make the regulation. 2009, c. 18, Sched. 6, s. 1.

Regulation of the L.G. in C.

(16)  The Lieutenant Governor in Council may make a regulation relating to any matter governed by Ontario commodity futures law, despite any other provision of this Act,

(a) if, in the opinion of the Lieutenant Governor in Council, there are extraordinary circumstances requiring immediate action to be taken in the public interest; and

(b) if, in the opinion of the Lieutenant Governor in Council, the regulation is necessary to maintain or restore fair and orderly commodity futures markets, to ensure prompt, accurate and safe clearance and settlement of transactions in contracts or commodities or to assist in doing so in another jurisdiction. 2009, c. 18, Sched. 6, s. 1.

Regulation of L.G. in C. prevails

(17)  A regulation made under subsection (16) prevails over a regulation made under subsection (9), and a regulation made under subsection (16) may revoke a regulation made under subsection (9). 2009, c. 18, Sched. 6, s. 1.

Interpretation

(18)  This section does not limit the authority of the Commission under any other section of this Act. 2009, c. 18, Sched. 6, s. 1.

**Section Amendments with date in force (d/m/y)**

[2009, c. 18, Sched. 6, s. 1](http://www.ontario.ca/laws/statute/S09018" \l "sched6s1) - 5/06/2009; [2009, c. 33, Sched. 16, s. 2 (1)](http://www.ontario.ca/laws/statute/S09033" \l "sched16s2s1) - 15/12/2009

Delegation

**2.3**(1)  The Commission may delegate any of the Commission’s powers and duties under this Act to the Chief Executive Officer of the Commission or to another Director. 2021, c. 8, Sched. 9, s. 39 (10).

Same

(2)  The Chief Executive Officer of the Commission may delegate powers or duties under this Act to another Director, other than powers and duties delegated to the Chief Executive Officer of the Commission by the Commission under subsection (1). 2021, c. 8, Sched. 9, s. 39 (10).

Revocation of delegation

(3)  The Commission may revoke, in whole or in part, a delegation made under subsection (1), and the Chief Executive Officer of the Commission may revoke, in whole or in part, a delegation made under subsection (2). 2021, c. 8, Sched. 9, s. 39 (10).

Terms and conditions

(4)  A delegation under this section is subject to any terms or conditions set out in the delegation. 2021, c. 8, Sched. 9, s. 39 (10).

**Section Amendments with date in force (d/m/y)**

[2021, c. 8, Sched. 9, s. 39 (10)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s10) - 29/04/2022

PART II  
APPOINTMENT OF EXPERTS

Appointment of experts

**3** (1)  The Commission may appoint one or more experts to assist the Commission in such manner as it may consider expedient. R.S.O. 1990, c. C.20, s. 3 (1).

Submissions to experts

(2)  The Commission may submit any agreement, contract, financial statement, report or other document to one or more experts appointed under subsection (1) for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission, and subsection 9 (1) applies with necessary modifications. R.S.O. 1990, c. C.20, s. 3 (2); 1999, c. 9, s. 25.

Payment of experts

(3)  An expert appointed under subsection (1) shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine. R.S.O. 1990, c. C.20, s. 3 (3).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 25 - 14/12/1999

**PART II.1** (s. 3.1, 3.2) Repealed: 2021, c. 8, Sched. 9, s. 39 (11).

**3.1, 3.2** Repealed: 2021, c. 8, Sched. 9, s. 39 (11).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 26 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (11)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s11) - 29/04/2022

PART III  
ADMINISTRATIVE PROCEEDINGS, REVIEWS AND APPEALS

Review of decision

**4** (1)  Repealed: 2021, c. 8, Sched. 9, s. 39 (12).

Review of Director’s decisions

(2)  Any person or company directly affected by a decision of the Director may, by notice in writing sent by registered mail to the Tribunal within thirty days after the mailing of the notice of the decision, request and be entitled to a hearing and review thereof by the Tribunal. R.S.O. 1990, c. C.20, s. 4 (2); 2021, c. 8, Sched. 9, s. 39 (13).

Extension by Tribunal

(2.1)  Despite subsection (2), the Tribunal may extend the time limit for filing notice of the request if an extension is not prejudicial to the public interest. 2021, c. 8, Sched. 9, s. 39 (14).

Power on review

(3)  Upon a hearing and review, the Tribunal may by order confirm the decision under review or make such other decision as the Tribunal considers proper. R.S.O. 1990, c. C.20, s. 4 (3); 2021, c. 8, Sched. 9, s. 39 (15).

Stay

(4)  Despite the fact that a person or company requests a hearing and review under subsection (2), the decision under review takes effect immediately, but the Tribunal may grant a stay until disposition of the hearing and review. R.S.O. 1990, c. C.20, s. 4 (4); 2021, c. 8, Sched. 9, s. 39 (15).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 27 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (12-15)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s12) - 29/04/2022

Appeal

**5** (1)  A person or company directly affected by a final decision of the Commission may appeal to the Divisional Court within 30 days after the later of the making of the final decision or the issuing of the reasons for the final decision. 1999, c. 9, s. 28 (1).

Stay

(2)  Despite the fact that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Commission or the Divisional Court may grant a stay until disposition of the appeal. R.S.O. 1990, c. C.20, s. 5 (2).

Certification of documents

(3)  The Chief Executive Officer of the Commission shall certify to the Divisional Court,

(a) the decision that has been reviewed by the Commission;

(b) the decision of the Commission, together with any statement of reasons therefor;

(c) the record of the proceedings before the Commission; and

(d) all written submissions to the Commission or other material that is relevant to the appeal. R.S.O. 1990, c. C.20, s. 5 (3); 1999, c. 9, s. 28 (2); 2021, c. 8, Sched. 9, s. 39 (16).

Respondent on appeal

(4)  The Commission is the respondent to an appeal under this section. 1999, c. 9, s. 28 (3).

Minister

(4.1)  The Minister is entitled to be heard by counsel or otherwise on the argument of an appeal under this section, whether or not the Minister is named as a party to the appeal. 1999, c. 9, s. 28 (3).

Powers of court on appeal

(5)  Where an appeal is taken under this section, the court may by its order direct the Commission to make such decision or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such decision or do such act accordingly. R.S.O. 1990, c. C.20, s. 5 (5).

Further decisions

(6)  Despite an order of the court on an appeal, the Commission may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this section. R.S.O. 1990, c. C.20, s. 5 (6).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 28 (1-3) - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (16)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s16) - 29/04/2022

Appeal of Tribunal’s decision

**6** (1)  The Chief Executive Officer of the Commission or a person or company directly affected by a final decision of the Tribunal, other than a decision under section 60.0.1 or 60.0.2, may appeal to the Divisional Court within 30 days after the later of the making of the final decision or the issuing of the reasons for the final decision. 2021, c. 8, Sched. 9, s. 39 (17); 2023, c. 21, Sched. 1, s. 1.

Stay

(2)  Despite the fact that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Tribunal or the Divisional Court may grant a stay until disposition of the appeal. 2021, c. 8, Sched. 9, s. 39 (17).

Certification of documents

(3)  The Chief Adjudicator shall certify to the Divisional Court,

(a) the decision that has been reviewed by the Tribunal;

(b) the decision of the Tribunal, together with any statement of reasons;

(c) the record of the proceedings before the Tribunal; and

(d) all written submissions to the Tribunal or other material that is relevant to the appeal. 2021, c. 8, Sched. 9, s. 39 (17).

Minister

(4)  The Minister is entitled to be heard by counsel or otherwise on the argument of an appeal under this section, whether or not the Minister is named as a party to the appeal. 2021, c. 8, Sched. 9, s. 39 (17).

Respondent to appeal

(5)  The Chief Executive Officer of the Commission is a respondent to an appeal under this section by a person or company mentioned in subsection (1). 2021, c. 8, Sched. 9, s. 39 (17).

Powers of court on appeal

(6)  Where an appeal is taken under this section, the court may by its order direct the Tribunal to make such decision or to do such other act as the Tribunal is authorized and empowered to do under this Act or the regulations and as the court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Tribunal shall make such decision or do such act accordingly. 2021, c. 8, Sched. 9, s. 39 (17).

Further decisions

(7)  Despite an order of the court on an appeal, the Tribunal may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this section. 2021, c. 8, Sched. 9, s. 39 (17).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 29 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (17)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s17) - 29/04/2022

[2023, c. 21, Sched. 1, s. 1](http://www.ontario.ca/laws/statute/S23021" \l "sched1s1) - 04/12/2023

Part IV  
Investigations and Examinations

Investigation order

**7** (1)  The Commission may, by order, appoint one or more persons to make such investigation with respect to a matter as it considers expedient,

(a) for the due administration of Ontario commodity futures law or the regulation of the commodity futures markets in Ontario;

(b) with respect to any other matter relating to trading in contracts; or

(c) to assist in the due administration of the commodity futures laws or the regulation of trading in contracts in another jurisdiction. 1999, c. 9, s. 30.

Contents of order

(2)  An order under this section shall describe the matter to be investigated. 1999, c. 9, s. 30.

Scope of investigation

(3)  For the purposes of an investigation under this section, a person appointed to make the investigation may investigate and inquire into,

(a) the affairs of the person or company in respect of which the investigation is being made, including any trades, communications, negotiations, transactions, investigations, loans, borrowings or payments to, by, on behalf of, or in relation to or connected with the person or company and any property, assets or things owned, acquired or alienated, in whole or in part, by the person or company or by any other person or company acting on behalf of, or as agent for, the person or company; and

(b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with the person or company, and any relationship that may at any time exist or have existed between the person or company and any other person or company by reason of trades in contracts, investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship. 1999, c. 9, s. 30.

Right to examine

(4)  For the purposes of an investigation under this section, a person appointed to make the investigation may examine any documents or other things, whether they are in the possession or control of the person or company in respect of which the investigation is ordered or of any other person or company. 1999, c. 9, s. 30.

Minister may order investigation

(5)  Despite subsection (1), the Minister may, by order, appoint one or more persons to make such investigation as the Minister considers expedient,

(a) for the due administration of Ontario commodity futures law or the regulation of the commodity futures markets in Ontario;

(b) with respect to any other matter relating to trading in contracts; or

(c) to assist in the due administration of the commodity futures laws or the regulation of trading in contracts in another jurisdiction. 1999, c. 9, s. 30.

Same

(6)  A person appointed under subsection (5) has, for the purpose of the investigation, the same authority, powers, rights and privileges as a person appointed under subsection (1). 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

Financial examination order

**8** (1)  The Commission may, by order, appoint one or more persons to make such examination of the financial affairs of a market participant as it considers expedient,

(a) for the due administration of Ontario commodity futures law or the regulation of the commodity futures markets in Ontario;

(b) with respect to any other matter relating to trading in contracts; or

(c) to assist in the due administration of the commodity futures laws or the regulation of trading contracts in another jurisdiction. 1999, c. 9, s. 30.

Contents of order

(2)  An order under subsection (1) shall describe the matter to be examined. 1999, c. 9, s. 30.

Right to examine

(3)  For the purposes of an examination under this section, a person appointed to conduct the examination may examine any documents or other things, whether they are in the possession or control of the market participant or any other person or company. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

Power of investigator or examiner

**9** (1)  A person making an investigation or examination under section 7 or 8 has the same power to summon and enforce the attendance of any person and to compel him or her to testify on oath or otherwise, and to summon and compel any person or company to produce documents and other things, as is vested in the Superior Court of Justice for the trial of civil actions, and the refusal of a person to attend or to answer questions or of a person or company to produce such documents or other things as are in his, her or its custody or possession makes the person or company liable to be committed for contempt by the Superior Court of Justice as if in breach of an order of that court. 1999, c. 9, s. 30.

Rights of witness

(2)  A person or company giving evidence under subsection (1) may be represented by counsel and may claim any privilege to which the person or company is entitled. 1999, c. 9, s. 30.

Inspection

(3)  A person making an investigation or examination under section 7 or 8 may, on production of the order appointing him or her, enter the business premises of any person or company named in the order during business hours and inspect any documents or other things that are used in the business of that person or company and that relate to the matters specified in the order, except those maintained by a lawyer in respect of his or her client’s affairs. 1999, c. 9, s. 30.

Authorization to search

(4)  A person making an investigation or examination under section 7 or 8 may apply to a judge of the Ontario Court of Justice in the absence of the public and without notice for an order authorizing the person or persons named in the order to enter and search any building, receptacle or place specified and to seize anything described in the authorization that is found in the building, receptacle or place and to bring it before the judge granting the authorization or another judge to be dealt with by him or her according to law. 1999, c. 9, s. 30; 2001, c. 23, s. 8.

Grounds

(5)  No authorization shall be granted under subsection (4) unless the judge to whom the application is made is satisfied on information under oath that there are reasonable and probable grounds to believe that there may be in the building, receptacle or place to be searched anything that may reasonably relate to the order made under section 7 or 8. 1999, c. 9, s. 30.

Power to enter, search and seize

(6)  A person named in an order under subsection (4) may, on production of the order, enter any building, receptacle or place specified in the order between 6 a.m. and 9 p.m., search for and seize anything specified in the order, and use as much force as is reasonably necessary for that purpose. 1999, c. 9, s. 30.

Expiration

(7)  Every order under subsection (4) shall name the date that it expires, and the date shall be not later than 15 days after the order is granted. 1999, c. 9, s. 30.

Application

(8)  Sections 159 and 160 of the Provincial Offences Act apply to searches and seizures under this section with such modifications as the circumstances require. 1999, c. 9, s. 30.

Private residence

(9)  In subsections (4), (5) and (6),

“building, receptacle or place” does not include a private residence. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

[2001, c. 23, s. 8](http://www.ontario.ca/laws/statute/S01023" \l "s8) - 5/12/2001

Copying

**10** (1)  Anything seized or produced under this Part shall be made available for inspection and copying by the person or company from which it was obtained, if practicable. 1999, c. 9, s. 30.

Return

(2)  Anything seized or produced under this Part shall be returned to the person or company from which it was obtained when,

(a) retention is no longer necessary for the purposes of an investigation, examination, proceeding or prosecution; or

(b) the Commission so orders. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

Report of investigation or examination

**11** (1)  A person appointed under subsection 7 (1) or 8 (1) shall, at the request of the Chair of the Commission or of a member of the Commission involved in making the appointment, provide a report to the Chair or member, as the case may be, or any testimony given and any documents or other things obtained under section 9. 1999, c. 9, s. 30.

Same

(2)  A person appointed under subsection 7 (5) shall, at the request of the Chair of the Commission, provide a report to the Chair or any testimony given and any documents or other things obtained under section 9. 1999, c. 9, s. 30.

Report privileged

(3)  A report provided under this section is privileged. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

Non-disclosure

**12** (1)  Except in accordance with subsection (1.1) or section 13, no person or company shall disclose at any time,

(a) the nature or content of an order under section 7 or 8; or

(b) the name of any person examined or sought to be examined under section 9, any testimony given under section 9, any information obtained under section 9, the nature or content of any questions asked under section 9, the nature or content of any demands for the production of any document or other thing under section 9 or the fact that any document or other thing was produced under section 9. 1999, c. 9, s. 30; 2019, c. 15, Sched. 7, s. 1 (1).

Exceptions

(1.1)  A disclosure by a person or company is permitted if,

(a) the disclosure is to the person’s or company’s counsel; or

(b) the disclosure is to the person’s or company’s insurer or insurance broker, and the person or company, or their counsel,

(i) gives written notice of the intended disclosure to a person appointed by the order under section 7 at least 10 days before the date of the intended disclosure,

(ii) includes in that written notice the name and head office address of the insurer or insurance broker and the name of the individual acting on behalf of the insurer or insurance broker to whom the disclosure is intended to be made, as applicable, and

(iii) on making the disclosure, advises the insurer or insurance broker that the insurer or insurance broker is bound by the confidentiality requirements in subsection (2) and obtains a written acknowledgement from the insurer or insurance broker of this advice. 2019, c. 15, Sched. 7, s. 1 (2).

Confidentiality

(2)  Any report provided under section 11 and any testimony given or documents or other things obtained under section 9 shall be for the exclusive use of the Commission and shall not be disclosed or produced to any other person or company or in any other proceeding except in accordance with subsection (1.1) or section 13. 1999, c. 9, s. 30; 2019, c. 15, Sched. 7, s. 1 (3).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

[2019, c. 15, Sched. 7, s. 1 (1-3)](http://www.ontario.ca/laws/statute/S19015" \l "sched7s1s1) - 10/12/2019

Disclosure by Tribunal

**13** (1)  If the Tribunal considers that it would be in the public interest, it may make an order authorizing the disclosure to any person or company of,

(a) the nature and content of an order under section 7 or 8;

(b) the name of any person examined or sought to be examined under section 9, any testimony given under section 9, any information obtained under section 9, the nature or content of any questions asked under section 9, the nature or content of any demands for the production of any document or other thing under section 9 or the fact that any document or other thing was produced under section 9; or

(c) all or part of a report provided under section 11. 1999, c. 9, s. 30; 2021, c. 8, Sched. 9, s. 39 (18).

Opportunity to object

(2)  No order shall be made under subsection (1) unless the Tribunal has, where practicable, given reasonable notice and an opportunity to be heard to,

(a) persons and companies named by the Tribunal; and

(b) in the case of disclosure of testimony given or information obtained under section 9, the person or company that gave the testimony or from which the information was obtained. 1999, c. 9, s. 30; 2021, c. 8, Sched. 9, s. 39 (18).

Order without notice

(2.1)  Despite subsection (2), if the Tribunal considers that it would be in the public interest, it may make an order without notice and without giving an opportunity to be heard authorizing the disclosure of the things described in clauses (1) (a) to (c) to any entity referred to in paragraph 1, 3, 4 or 5 of section 153 of the Securities Act. 2013, c. 2, Sched. 2, s. 1 (1); 2021, c. 8, Sched. 9, s. 39 (18).

Disclosure to police

(3)  Without the written consent of the person from whom the testimony was obtained, no order shall be made under subsection (1) or (2.1) authorizing the disclosure of testimony given under subsection 9 (1) to,

(a) a member of a municipal, provincial, federal or other police service; or

(b) a person responsible for the enforcement of the criminal law of Canada or of any other country or jurisdiction. 1999, c. 9, s. 30; 2013, c. 2, Sched. 2, s. 1 (2); 2019, c. 1, Sched. 4, s. 11 (1).

Terms and conditions

(4)  An order under subsection (1) or (2.1) may be subject to terms and conditions imposed by the Tribunal. 1999, c. 9, s. 30; 2013, c. 2, Sched. 2, s. 1 (3); 2021, c. 8, Sched. 9, s. 39 (18).

Disclosure by court

(5)  A court having jurisdiction over a prosecution under the Provincial Offences Act initiated by the Commission may compel production to the court of any testimony given or any document or other thing obtained under section 9, and after inspecting the testimony, document or thing and providing all interested parties with an opportunity to be heard, the court may order the release of the testimony, document or thing to the defendant if the court determines that it is relevant to the prosecution, is not protected by privilege and is necessary to enable the defendant to make full answer and defence, but the making of an order under this subsection does not determine whether the testimony, document or thing is admissible in the prosecution. 1999, c. 9, s. 30.

Disclosure in investigation or proceeding

(6)  A person appointed to make an investigation or examination under this Act may, for the purpose of conducting an examination or in connection with a proceeding commenced or proposed to be commenced under this Act, disclose or produce anything mentioned in subsection (1). 1999, c. 9, s. 30; 2021, c. 8, Sched. 9, s. 39 (19).

Disclosure to police

(7)  Without the written consent of the person from whom the testimony was obtained, no disclosure shall be made under subsection (6) of testimony given under subsection 9 (1) to,

(a) a member of a municipal, provincial, federal or other police service; or

(b) a person responsible for the enforcement of the criminal law of Canada or of any other country or jurisdiction. 1999, c. 9, s. 30; 2019, c. 1, Sched. 4, s. 11 (2).

Prohibition on use of compelled testimony

(8)  Testimony given under section 9 shall not be admitted in evidence against the person from whom the testimony was obtained in a prosecution for an offence under section 55 or in any other prosecution governed by the Provincial Offences Act. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

[2013, c. 2, Sched. 2, s. 1 (1-3)](http://www.ontario.ca/laws/statute/S13002" \l "sched2s1s1) - 21/06/2013

[2018, c. 3, Sched. 5, s. 13 (1, 2)](http://www.ontario.ca/laws/statute/S18003" \l "sched5s13s1) - no effect - see [2019, c. 1, Sched. 3, s. 5](http://www.ontario.ca/laws/statute/S19001" \l "sched3s5) - 26/03/2019

[2019, c. 1, Sched. 4, s. 11 (1, 2)](http://www.ontario.ca/laws/statute/S19001" \l "sched4s11s1) - 01/04/2024

[2021, c. 8, Sched. 9, s. 39 (18, 19)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s18) - 29/04/2022

Part V  
Record-Keeping and Compliance Reviews

Record-keeping

**14** (1)  Every market participant shall keep the following records:

1. Such books, records and other documents as are necessary for the proper recording of its business transactions and financial affairs and the transactions it executes on behalf of others.

2. Such books, records and other documents as may otherwise be required under Ontario commodity futures law.

3. Such books, records and other documents as may reasonably be required to demonstrate compliance with Ontario commodity futures law.

4. Such books, records and other documents as may be prescribed by the regulations for the purpose of detecting, identifying or mitigating systemic risks related to the capital markets. 2015, c. 20, Sched. 6, s. 1; 2017, c. 34, Sched. 7, s. 3 (1).

Record of transaction

(2)  Without limiting the generality of subsection (1), every registered commodity futures exchange shall keep a record of the time at which each transaction on such commodity futures exchange took place and shall supply to any client of a member of such commodity futures exchange, on production of a written confirmation of a transaction with the member, particulars of the time at which the transaction took place and verification or otherwise of the matters set forth in the written confirmation. 1999, c. 9, s. 30.

Provision of information to Commission

(3)  Every market participant shall, at the time and in the form specified by the Commission or by any member, employee or agent of the Commission, deliver to the Commission,

(a) any of the books, records and other documents required to be kept by subsection (1); and

(b) except where prohibited by law, any filings, reports or other communications made to any other regulatory agency whether within or outside of Ontario. 2017, c. 34, Sched. 7, s. 3 (2).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

[2017, c. 34, Sched. 7, s. 3 (1, 2)](http://www.ontario.ca/laws/statute/S17034" \l "sched7s3s1) - 14/12/2017

Compliance reviews

**14.1**  (1)  The Commission may designate in writing one or more persons to review the books, records and documents of a market participant for the purpose of determining whether Ontario commodity futures law is being complied with. 1999, c. 9, s. 30; 2014, c. 7, Sched. 5, s. 2 (1).

Powers of compliance reviewer

(2)  A person conducting a compliance review under this section may, on production of his or her designation,

(a) enter the business premises of any market participant during business hours; and

(b) inquire into and examine the books, records and documents of the market participant and make copies of the books, records and documents. 1999, c. 9, s. 30; 2014, c. 7, Sched. 5, s. 2 (2).

Fees

(3)  A market participant in respect of which a compliance review is conducted under this section shall pay the Commission such fees as may be prescribed by the regulations. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

[2014, c. 7, Sched. 5, s. 2 (1, 2)](http://www.ontario.ca/laws/statute/S14007" \l "sched5s2s1) - 24/07/2014

Part VI  
Self-Regulation

Commodity futures exchanges

**15** (1)  No person or company shall carry on business as a commodity futures exchange in Ontario unless registered by the Commission under this section. 1999, c. 9, s. 30.

Registration

(2)  The Commission shall, on the application of a person or company proposing to carry on business as a commodity futures exchange in Ontario, register the person or company if the Commission is satisfied that to do so would be in the public interest. 1999, c. 9, s. 30.

Same

(3)  A registration under this section shall be made in writing and shall be subject to such terms and conditions as the Commission may impose. 1999, c. 9, s. 30.

Factors

(4)  In making its decision as to whether registration under this section is in the public interest, the Commission shall take into account whether,

(a) the clearing and other arrangements made and the financial condition of the commodity futures exchange, its clearing house and its members are such as to provide reasonable assurance that all obligations arising out of contracts entered into on such commodity futures exchange will be met;

(b) the rules and regulations applicable to exchange members and clearing house members are in the public interest, are actively enforced and permit the commodity futures exchange to maintain orderly trading in its markets;

(c) trading practices are fair and properly supervised;

(d) adequate measures have been taken to prevent manipulation and excessive speculation;

(e) adequate provision has been made to record and publish details of trading, including volume and open interest; and

(f) the commodity futures exchange has satisfied or can satisfy all conditions prescribed under the regulations for the conduct of the business of a commodity futures exchange. 1999, c. 9, s. 30.

Right to be heard

(5)  The Commission shall not refuse to grant registration to a commodity futures exchange for the purposes of subsection (2) without giving the applicant an opportunity to be heard. 1999, c. 9, s. 30.

Filings

(6)  Every registered commodity futures exchange shall file with the Commission all by-laws, rules, regulations, policies, procedures, interpretations and practices as soon as practicable and in any event within five days of the date on which the by-law, rule, regulation, policy, procedure, interpretation or practice is approved by the Board of Directors of the commodity futures exchange and prior to approval by the membership of the commodity futures exchange. 1999, c. 9, s. 30.

Commission’s powers

(7)  The Commission may, if it appears to be in the public interest, make any decision,

(a) with respect to the manner in which a registered commodity futures exchange carries on business;

(b) with respect to any by-law, rule, regulation, policy, procedure, interpretation or practice of a registered commodity futures exchange or its clearing house; or

(c) with respect to trading on or through the facilities of a registered commodity futures exchange or with respect to any contract traded on a registered commodity futures exchange, including the setting of levels of margin, daily price limits, daily trading limits and position limits. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

Self-regulatory organizations

**16** (1)  The Commission may, on application of a self-regulatory organization, recognize the self-regulatory organization if the Commission is satisfied that to do so would be in the public interest and that the self-regulatory organization has satisfied or can satisfy all conditions with respect to self-regulatory bodies prescribed under the regulation. 1999, c. 9, s. 30.

Same

(2)  A recognition under this section shall be made in writing and shall be subject to such terms and conditions as the Commission may impose. 1999, c. 9, s. 30.

Standards and conduct

(3)  A recognized self-regulatory organization shall, subject to Ontario commodity futures law, regulate the operations and the standards of practice and business conduct of its members and their representatives in accordance with its by-laws, rules, regulations, policies, procedures, interpretations and practices. 1999, c. 9, s. 30.

Commission’s powers

(4)  The Commission may, if it is satisfied that to do so would be in the public interest, make any decision with respect to any by-law, rule, regulation, policy, procedure, interpretation or practice of a recognized self-regulatory organization. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

Clearing houses

**17** (1)  The Commission may, on the application of a person or company carrying on or proposing to carry on the business of a clearing house for a commodity futures exchange registered pursuant to subsection 15 (2), recognize the clearing house, if the Commission is satisfied that to do so would be in the public interest and that the clearing house has satisfied or can satisfy all conditions with respect to clearing houses prescribed under the regulation. 1999, c. 9, s. 30.

Same

(2)  A recognition under this section shall be made in writing and shall be subject to such terms and conditions as the Commission may impose. 1999, c. 9, s. 30.

Filings

(3)  Every recognized clearing house shall file with the Commission copies of all constating documents, and any general agreement with its members, and copies of all by-laws, rules, regulations, procedures and policies, and any amendments thereto, relating to trading in contracts, as soon as practicable and in any event within five days of the date on which the by-law, rule, regulation, procedure or policy, or any amendment thereto, is approved by the Board of Directors of the recognized clearing house and prior to approval by its membership. 1999, c. 9, s. 30.

Commission’s powers

(4)  The Commission may, if it is satisfied that to do so would be in the public interest, make any decision,

(a) with respect to any constating document, general agreement with its members, by-law, rule, regulation, procedure, policy, interpretation or practice of a recognized clearing house; or

(b) with respect to the manner in which any recognized clearing house carries on its business. 1999, c. 9, s. 30.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 17 of the Act is repealed and the following substituted: (See: 2017, c. 8, Sched. 5, s. 2)

Clearing houses

**17** (1)  No person or company shall carry on business in Ontario as a clearing house unless the person or company is recognized by the Commission under this section as a clearing house. 2017, c. 8, Sched. 5, s. 2.

Recognition

(2)  The Commission may, on the application of a clearing house, recognize the clearing house if the Commission is satisfied that to do so would be in the public interest. 2017, c. 8, Sched. 5, s. 2.

Same

(3)  A recognition under this section shall be made in writing and shall be subject to such terms and conditions as the Commission may impose. 2017, c. 8, Sched. 5, s. 2.

Commission’s powers

(4)  The Commission may make decisions with respect to any of the following matters if the Commission is satisfied that it is in the public interest to do so:

1. Any by-law, rule, regulation, policy, procedure, interpretation or practice of a recognized clearing house.

2. The manner in which a recognized clearing house carries on its business. 2017, c. 8, Sched. 5, s. 2.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

[2017, c. 8, Sched. 5, s. 2](http://www.ontario.ca/laws/statute/S17008" \l "sched5s2) - not in force

Council, committee or ancillary body

**18** (1)  A registered commodity futures exchange or a recognized self-regulatory organization may, with the prior approval of the Commission and on such terms and conditions as the Commission may determine to be necessary or appropriate in the public interest, establish a council, committee or other ancillary body to which it delegates regulatory or self-regulatory powers or responsibilities, or both. 1999, c. 9, s. 30; 2021, c. 8, Sched. 9, s. 39 (20).

Same

(2)  A council, committee or ancillary body that exercises the powers or assumes the responsibilities of a registered commodity futures exchange or recognized self-regulatory organization is also included in,

(a) the registration or recognition of the registered commodity futures exchange or recognized self-regulatory organization;

(b) any suspension, restriction or termination of the registration or recognition of the registered commodity futures exchange or recognized self-regulatory organization; and

(c) any imposition of terms or conditions on the registration or recognition of the registered commodity futures exchange or recognized self-regulatory organization. 1999, c. 9, s. 30.

Same

(3)  The provisions of Ontario commodity futures law that apply to registered commodity futures exchanges and recognized self-regulatory organizations also apply with necessary modifications to the council, committee or ancillary body. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (20)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s20) - 29/04/2022

Voluntary surrender

**19** On application by a registered commodity futures exchange, recognized self-regulatory organization or recognized clearing house, the Commission may accept, on such terms and conditions as it may impose, the voluntary surrender of the registration of the commodity futures exchange, or of the recognition of the self-regulatory organization or clearing house, if the Commission is satisfied that the surrender of the registration or recognition would not be prejudicial to the public interest. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

Delegation to registered commodity futures exchange, recognized self-regulatory organization

**20** (1)  The Commission may, on such terms and conditions as it may impose, delegate to a registered commodity futures exchange or recognized self-regulatory organization any of the powers and duties of the Commission under Part VIII or the regulations related to that Part. 2021, c. 8, Sched. 9, s. 39 (21).

Same

(2)  The Chief Executive Officer of the Commission may, with the approval of the Commission, delegate to a registered commodity futures exchange or recognized self-regulatory organization any of the powers and duties of the Director under Part VIII or the regulations related to that Part. 2021, c. 8, Sched. 9, s. 39 (21).

Revocation of delegation

(3)  The Commission or, with the approval of the Commission, the Chief Executive Officer of the Commission, may at any time revoke, in whole or in part, a delegation made under this section. 2021, c. 8, Sched. 9, s. 39 (21).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (21)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s21) - 29/04/2022

Contravention of Ontario commodity futures law

**21** No by-law, rule, regulation, policy, procedure, interpretation or practice of a registered commodity futures exchange, recognized self-regulatory organization or recognized clearing house shall contravene Ontario commodity futures law, but a registered commodity futures exchange, recognized self-regulatory organization or recognized clearing house may impose additional requirements within its jurisdiction. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

Review of decisions

**21.1**  (1)  The Chief Executive Officer of the Commission or a person or company directly affected by, or by the administration of, a direction, decision, order or ruling made under a by-law, rule, regulation, policy, procedure, interpretation, direction or practice of a registered commodity futures exchange, recognized self-regulatory organization or a recognized clearing house may apply to the Tribunal for a hearing and review of the direction, decision, order or ruling. 1999, c. 9, s. 30; 2021, c. 8, Sched. 9, s. 39 (22).

Procedure

(2)  Section 4 applies to the hearing and review of the direction, decision, order or ruling in the same manner as it applies to a hearing and review of a decision of the Director. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (22)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s22) - 29/04/2022

Registered commodity futures exchange auditor

**21.2**  (1)  Every registered commodity futures exchange shall appoint an auditor for the exchange. 1999, c. 9, s. 30.

Recognized self-regulatory organization auditor

(2)  At the request of the Commission, a recognized self-regulatory organization shall appoint an auditor for the self-regulatory organization. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

Auditor of member

**21.3**  (1)  Every registered commodity futures exchange and every recognized self-regulatory organization shall cause each of its members to appoint an auditor. 1999, c. 9, s. 30.

Selection of auditor

(2)  The auditor of a member shall be chosen from the panel of auditing firms selected under subsection (3). 1999, c. 9, s. 30.

Panel of auditors

(3)  Every registered commodity futures exchange and every recognized self-regulatory organization shall select a panel of auditing firms for their members. 1999, c. 9, s. 30.

Auditor

(4)  No person shall be appointed as an auditor under subsection (1) unless the person has practised as an auditor in Canada for five years or more. 1999, c. 9, s. 30.

Examination and report

(5)  The auditor of a member shall make an examination, in accordance with generally accepted auditing standards, of the annual financial statements and regulatory filings of the member as called for by the by-laws, rules, regulations, policies, procedures, interpretations, directions or practices applicable to the member, and shall report on the financial affairs of the member to the registered commodity futures exchange or recognized self-regulatory organization, as the case may be, in accordance with professional reporting standards. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

Auditor of registrant

**21.4**  (1)  Every registered dealer and registered adviser that is not subject to section 21.3 shall appoint an auditor who satisfies such requirements as may be established by the Commission. 1999, c. 9, s. 30.

Examination and report

(2)  The auditor of a registered dealer or registered adviser that is not subject to section 21.3 shall make an examination of the annual financial statements and other regulatory filings of the registered dealer or registered adviser, in accordance with generally accepted auditing standards, and shall prepare a report on the financial affairs of the registered dealer or registered adviser in accordance with professional reporting standards. 1999, c. 9, s. 30.

Filing with Commission

(3)  The registered dealer or registered adviser shall file the report with the Commission, together with its annual financial statements and other regulatory filings. 1999, c. 9, s. 30.

Delivery of financial statements

(4)  A registered dealer or registered adviser that is not subject to section 21.3 shall deliver to the Commission annual audited financial statements, prepared in accordance with generally accepted accounting principles, and other regulatory filings as prescribed by the regulations, within 90 days after the end of its financial year or as otherwise prescribed by the regulations. 1999, c. 9, s. 30.

Certification of financial statements

(5)  The annual financial statements and regulatory filings delivered to the Commission shall be certified by the registered dealer or registered adviser or an officer or partner of the registered dealer or registered adviser. 1999, c. 9, s. 30.

Additional information

(6)  The registered dealer or registered adviser shall deliver to the Commission such other information as the Commission may require in such form as it may require. 1999, c. 9, s. 30.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 30 - 14/12/1999

Part VII  
Benchmarks

Designation of benchmarks and benchmark administrators

**21.5**(1)  A benchmark administrator, or the Director, may apply to the Commission to request the designation of a benchmark or a benchmark administrator. 2018, c. 17, Sched. 7, s. 2.

Director’s application

(2)  If the Director applies for a designation, the Commission shall give the affected benchmark administrator the opportunity to be heard before making a decision under subsection (3). 2018, c. 17, Sched. 7, s. 2.

Commission’s powers

(3)  After receiving the application, the Commission may, if it considers it in the public interest to do so, designate the benchmark as a designated benchmark or designate the benchmark administrator as a designated benchmark administrator of a designated benchmark, as appropriate. 2018, c. 17, Sched. 7, s. 2.

Terms and conditions

(4)  A designation under subsection (3) may be made subject to any terms and conditions the Commission considers advisable. 2018, c. 17, Sched. 7, s. 2.

Cancellation or change

(5)  The Commission may, if it considers it in the public interest to do so, cancel the designation of a designated benchmark or a designated benchmark administrator or impose or change the terms and conditions of the designation. 2018, c. 17, Sched. 7, s. 2.

Opportunity to be heard

(6)  The Commission shall not refuse to designate a benchmark or benchmark administrator, cancel the designation of a designated benchmark or designated benchmark administrator or impose or change the terms and conditions to which a designation is subject without giving the benchmark administrator an opportunity to be heard. 2018, c. 17, Sched. 7, s. 2.

Category

(7)  The Commission may, if it considers it in the public interest to do so, assign a designated benchmark to a prescribed category or categories of designated benchmarks. 2018, c. 17, Sched. 7, s. 2.

**Section Amendments with date in force (d/m/y)**

[2018, c. 17, Sched. 7, s. 2](http://www.ontario.ca/laws/statute/S18017" \l "sched7s2) - 06/12/2018

Requiring information

**21.6**(1)  The Commission may, in response to an application by the Director, require a person or company to provide information to a designated benchmark administrator in relation to the designated benchmark if the Commission considers it in the public interest to do so. 2018, c. 17, Sched. 7, s. 2.

Opportunity to be heard

(2)  The Commission shall give the affected person or company and benchmark administrator the opportunity to be heard before making the order. 2018, c. 17, Sched. 7, s. 2.

Terms and conditions

(3)  An order under subsection (1) may be made subject to any terms and conditions the Commission considers advisable. 2018, c. 17, Sched. 7, s. 2.

Cancellation or change

(4)  The Commission may, if it considers it in the public interest to do so, cancel or change an order made under subsection (1) or impose or change the terms and conditions of the order. 2018, c. 17, Sched. 7, s. 2.

Opportunity to be heard

(5)  The Commission shall not cancel or change an order made under subsection (1) or impose or change the terms and conditions of the order without giving the person or company and the benchmark administrator an opportunity to be heard. 2018, c. 17, Sched. 7, s. 2.

**Section Amendments with date in force (d/m/y)**

[2018, c. 17, Sched. 7, s. 2](http://www.ontario.ca/laws/statute/S18017" \l "sched7s2) - 06/12/2018

Duty to comply

Benchmark administrator

**21.7**(1)  A benchmark administrator shall comply with such requirements as may be prescribed by the regulations, including requirements,

(a) relating to benchmarks, benchmark administrators, benchmark contributors and benchmark users; and

(b) relating to the establishment, publication and enforcement of a code of conduct by a benchmark administrator. 2018, c. 17, Sched. 7, s. 2.

Benchmark contributor

(2)  A benchmark contributor shall comply with such requirements as may be prescribed by the regulations, including requirements relating to benchmarks, benchmark administrators, benchmark contributors and benchmark users. 2018, c. 17, Sched. 7, s. 2.

General

(3)  Benchmark administrators, benchmark contributors and their respective directors, officers and employees, and any of their service providers or security holders that are in a prescribed class, shall comply with,

(a) any code of conduct established by a benchmark administrator in accordance with the regulations;

(b) requirements established by the regulations relating to the prohibitions against and procedures regarding conflicts of interest involving a benchmark and benchmark administrators, benchmark contributors and their respective directors, officers and employees, and any of their service providers or security holders that are in a prescribed class; and

(c) requirements established by the regulations relating to the prohibition or restriction of any matter or conduct involving a benchmark. 2018, c. 17, Sched. 7, s. 2.

Benchmark user

(4)  A benchmark user shall comply with such requirements as may be prescribed by the regulations, including requirements,

(a) relating to benchmarks, benchmark administrators, benchmark contributors and benchmark users;

(b) prohibiting the use of a non-designated benchmark; and

(c) relating to disclosure and other requirements relating to the use of a benchmark. 2018, c. 17, Sched. 7, s. 2.

**Section Amendments with date in force (d/m/y)**

[2018, c. 17, Sched. 7, s. 2](http://www.ontario.ca/laws/statute/S18017" \l "sched7s2) - 06/12/2018

PART VIII  
REGISTRATION FOR TRADInG, ACTING AS ADVISER

Registration for trading

**22** (1)  No person or company shall,

(a) trade in a contract unless such person or company is registered as a dealer or is registered as a salesperson or floor trader or as a partner or as an officer of a registered dealer and is acting on behalf of such dealer;

(b) act as an adviser unless such person or company is registered as an adviser, or is registered as a representative or as a partner or as an officer of a registered adviser and is acting on behalf of such adviser,

and such registration has been made in accordance with Ontario commodity futures law and such person or company has received written notice of such registration from the Director and, where such registration is subject to terms and conditions, the person or company complies with such terms and conditions. R.S.O. 1990, c. C.20, s. 22 (1); 1997, c. 19, s. 1 (1); 1999, c. 9, s. 31.

Termination re salesperson and floor trader

(2)  The termination of the employment of a salesperson or floor trader with a registered dealer shall operate as a suspension of the registration of the salesperson or floor trader until notice in writing has been received by the Director from another registered dealer of the employment of the salesperson or floor trader by such other registered dealer and the reinstatement of the registration has been approved by the Director. R.S.O. 1990, c. C.20, s. 22 (2); 1997, c. 19, s. 1 (1).

Non-trading employee

(3)  The Director may designate as non-trading any employee or class of employees of a registered dealer that does not usually trade in contracts, but the designation may be cancelled as to any employee or class of employees where the Director is satisfied that any such employee or any member of such class of employees should be required to apply for registration as a salesperson. R.S.O. 1990, c. C.20, s. 22 (3); 1997, c. 19, s. 1 (1).

**Section Amendments with date in force (d/m/y)**

1997, c. 19, s. 1 (1) - 10/10/1997; 1999, c. 9, s. 31 (1, 2) - 14/12/1999

Granting of registration

**23** (1)  The Director shall grant registration, renewal of registration, reinstatement of registration or amendment to registration to an applicant except where,

(a) having regard to the applicant’s financial position, the applicant cannot reasonably be expected to be financially responsible to conduct business;

(b) the past conduct of the applicant, or the officers, directors or partners of the applicant, affords reasonable grounds for belief that the business of the applicant will not be carried on in accordance with law and with integrity and honesty; or

(c) the applicant is or will be carrying on activities that are in contravention of this Act or the regulations. R.S.O. 1990, c. C.20, s. 23 (1).

Terms and conditions

(2)  The Director may in his or her discretion restrict a registration by imposing terms and conditions thereon and, without limiting the generality of the foregoing, may restrict the duration of a registration and may restrict the registration to trades in a certain class of contracts. R.S.O. 1990, c. C.20, s. 23 (2).

Refusal

(3)  The Director shall not refuse to grant, renew, reinstate or amend registration or impose terms and conditions thereon without giving the applicant an opportunity to be heard. R.S.O. 1990, c. C.20, s. 23 (3).

Surrender

**24** On application by a registrant, the Commission may accept, subject to such terms and conditions as it may impose, the voluntary surrender of the registration of the registrant if the Commission is satisfied that the financial obligations of the registrant to his, her or its clients have been discharged and the surrender of the registration would not be prejudicial to the public interest. 1999, c. 9, s. 32.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 32 - 14/12/1999

Subsequent applications

**25** A further application for registration may be made upon new or other material or where it is clear that material circumstances have changed. R.S.O. 1990, c. C.20, s. 25.

Form of application

**26** An application must be in the form approved by the Commission. 1997, c. 19, s. 1 (2).

**Section Amendments with date in force (d/m/y)**

1997, c. 19, s. 1 (2) - 10/10/1997

Address for service

**27** Every applicant shall state in the application an address for service in Ontario and, except as otherwise provided in this Act, all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. R.S.O. 1990, c. C.20, s. 27.

Further information

**28** The Director may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, officer, director, governor or trustee of, or any person performing a like function for, or any employee of, the applicant or of the registrant to submit to examination under oath by a person designated by the Director. R.S.O. 1990, c. C.20, s. 28.

**29** Repealed: 1999, c. 9, s. 33.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 33 - 14/12/1999

**30** Repealed: 1999, c. 9, s. 34.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 34 - 21/02/2003

PART IX  
EXEMPTIONS FROM REGISTRATION REQUIREMENTS

Exemptions of advisers

**31** Registration as an adviser is not required to be obtained by,

(a) a bank listed in Schedule I or II to the Bank Act (Canada), or the Business Development Bank of Canada continued as a body corporate under the Business Development Bank of Canada Act (Canada), or a trust corporation registered under the Loan and Trust Corporations Act, or a credit union or central to which the Credit Unions and Caisses Populaires Act, 2020 applies, or an insurance company licensed under the Insurance Act;

(b) a lawyer, accountant, engineer, teacher or employee of the Ministry of Agriculture, Food and Rural Affairs;

(c) a registered dealer, or any partner, officer or employee thereof;

(d) a person or company registered as an adviser under the Securities Act, or any partner, officer or employee thereof;

(e) a publisher of or any writer for any newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an adviser only through such publication and has no interest either directly or indirectly in any of the contracts upon which the advice is given and receives no commission or other consideration for giving the advice,

where the performance of the service as an adviser is solely incidental to their principal business or occupation, or

(f) such other persons or companies as are designated by the regulations. R.S.O. 1990, c. C.20, s. 31; 1999, c. 9, s. 35; 2009, c. 33, Sched. 1, s. 8; 2020, c. 36, Sched. 7, s. 300.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 35 - 14/12/1999

[2009, c. 33, Sched. 1, s. 8](http://www.ontario.ca/laws/statute/S09033" \l "sched1s8) - 15/12/2009

[CTS 30 SE 11 - 1](http://www.ontario.ca/laws/consolidated-statutes-change-notices)

[2020, c. 36, Sched. 7, s. 300](http://www.ontario.ca/laws/statute/S20036" \l "sched7s300) - 01/03/2022

Exemption of trades

**32** Subject to the regulations, registration is not required in respect of,

(a) a trade in a contract by a hedger through a dealer;

(b) a trade in a contract by a person or company acting solely through an agent who is a registered dealer;

(c) a trade in a contract to be executed on an exchange situate outside Ontario resulting from an order placed with a dealer who does not carry on business in Ontario, not involving any solicitation by or on behalf of the dealer; or

(d) a trade in a contract in respect of which a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director under the Securities Act. R.S.O. 1990, c. C.20, s. 32.

PART X  
RECOGNITION OF COMMODITY FUTURES EXCHANGES AND ACCEPTANCE OF FORM OF CONTRACT

Registration or recognition of commodity futures exchange and acceptance of form of contracts required

**33** No person or company, except a hedger, shall trade in contracts on the person’s or company’s account or on behalf of any other person or company except,

(a) contracts traded on a commodity futures exchange, registered by the Commission or recognized by the Commission under this Part, if the form of the contracts has been approved by the Director under this Part;

(b) contracts for which a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director under the Securities Act; and

(c) a contract traded on a commodity futures exchange situate outside Ontario as the result of an order placed with a dealer who does not carry on business in Ontario, not involving any solicitation by or on behalf of the dealer. R.S.O. 1990, c. C.20, s. 33.

Recognition of commodity futures exchange by Commission

**34** (1)  Upon application by or on behalf of a commodity futures exchange that is situate outside Ontario, the Commission shall recognize such commodity futures exchange where it is satisfied that to do so would not be prejudicial to the public interest and in making its decision shall take into account whether,

(a) the clearing and other arrangements made and the financial condition of the commodity futures exchange, its clearing house and its members are such as to provide reasonable assurance that all obligations arising out of contracts entered into on such commodity futures exchange will be met;

(b) the rules and regulations applicable to exchange members and clearing house members are in the public interest and are actively enforced;

(c) floor trading practices are fair and properly supervised;

(d) adequate measures have been taken to prevent manipulation and excessive speculation;

(e) adequate provision has been made to record and publish details of trading including volume and open interest;

(f) the exchange and its clearing house have undertaken to comply with section 35; and

(g) the exchange and its clearing house are subject to appropriate government controls. R.S.O. 1990, c. C.20, s. 34 (1).

Hearing

(2)  The Commission shall not refuse to recognize a commodity futures exchange under this Part without giving the applicant an opportunity to be heard. R.S.O. 1990, c. C.20, s. 34 (2).

Filing of by-laws, etc.

**35** Every commodity futures exchange recognized by the Commission under section 34 and its clearing house shall file with the Commission all by-laws, rules, regulations and policies forthwith after the by-law, rule, regulation or policy is approved by the board of directors of the commodity futures exchange or clearing house. R.S.O. 1990, c. C.20, s. 35.

Acceptance of form of contracts by Director

**36** (1)  Upon application by or on behalf of a commodity futures exchange registered by the Commission, or recognized by the Commission under this Part, and the filing of a copy of all terms and conditions of a contract that it is proposed be traded in Ontario, the Director shall accept the form of contract where he or she is satisfied that to do so would not be prejudicial to the public interest and in making his or her decision shall take into account whether,

(a) more than occasional use is made or can be reasonably expected to be made of the contract for hedging transactions;

(b) with respect to a commodity futures contract each term or condition is in conformity with normal commercial practices of the trade in the commodity or if not in such conformity there is reasonable justification therefor;

(c) with respect to a commodity futures contract satisfactory levels of margin, daily price limits, daily trading limits and position limits are imposed by the commodity futures exchange;

(d) with respect to a commodity futures option the form of the commodity futures contract that is the subject of the option has been accepted under this Part; and

(e) with respect to a commodity futures option performance on exercise of the option is reasonably assured by established rules and procedures that are actively enforced. R.S.O. 1990, c. C.20, s. 36 (1).

Hearing

(2)  The Director shall not refuse to accept the form of contract without giving the applicant an opportunity to be heard. R.S.O. 1990, c. C.20, s. 36 (2).

Terms and conditions of contracts to be filed with Commission and available through agent

**37** (1)  It is a condition of acceptance of the form of a contract under section 36 that the commodity futures exchange,

(a) file with the Commission copies of all current contract terms and conditions; and

(b) unless the Director by order modifies the requirement, make copies of all current contract terms and conditions available to registrants through an agent in Ontario designated by the commodity futures exchange. R.S.O. 1990, c. C.20, s. 37 (1).

Idem

(2)  Copies of amendments or additions to contract terms and conditions shall be filed with the Commission and supplied to the agent designated by the commodity futures exchange forthwith after the amendment or addition is approved by the board of directors of the commodity futures exchange. R.S.O. 1990, c. C.20, s. 37 (2).

Idem

(3)  The Director shall not accept the form of a contract until advised by the commodity futures exchange of the name and address of the agent designated for the purposes of subsection (1). R.S.O. 1990, c. C.20, s. 37 (3).

Idem

(4)  The commodity futures exchange shall, within five days of the event, notify the Director of any change in the name or address of the agent designated for the purposes of subsection (1). R.S.O. 1990, c. C.20, s. 37 (4).

Order exempting from registration for trading, acceptance of form of contract

**38** (1)  The Commission may, upon the application of an interested person or company, rule that an intended trade is not subject to section 22 or 33 where it is satisfied that to do so will not be prejudicial to the public interest and may impose such terms and conditions as are considered necessary. R.S.O. 1990, c. C.20, s. 38 (1).

Ruling final

(2)  A decision of the Commission under this section is final and there is no appeal therefrom. R.S.O. 1990, c. C.20, s. 38 (2).

**Part XI** (s. 39) Repealed: 1999, c. 9, s. 36.

**39.**

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 36 - 14/12/1999

PART XII  
TRADING GENERALLY

Statement to be furnished to prospective customer

**40** (1)  Every registered dealer or adviser shall furnish each prospective customer prior to the opening of an account with a written statement in a form approved by the Commission which will,

(a) explain the nature of, and risks inherent in trading in contracts and obligations assumed by the customer upon entering a contract;

(b) advise the client to request and study the terms and conditions of the contract; and

(c) furnish details concerning commissions and other charges levied by the dealer or adviser. R.S.O. 1990, c. C.20, s. 40 (1); 1997, c. 19, s. 1 (3).

Terms and conditions

(2)  Except where the Director by order modifies the requirement, every registered dealer or advisor upon the request of a client shall furnish the client with a copy of all current terms and conditions of any contract the form of which has been accepted by the Director under Part X. R.S.O. 1990, c. C.20, s. 40 (2).

**Section Amendments with date in force (d/m/y)**

1997, c. 19, s. 1 (3) - 10/10/1997

Minimum margin required

**41** (1)  Subject to subsections (2) and (3), every registered dealer who acts as an agent in connection with a trade in a commodity futures contract shall require from the customer a margin of not less than the minimum prescribed under the by-laws, rules or regulations of the commodity futures exchange upon which the contract is traded. R.S.O. 1990, c. C.20, s. 41 (1).

Idem

(2)  Subject to subsection (3), where the Commission has made an order with respect to levels of margin under section 20, every registered dealer who acts as an agent in connection with a trade in a commodity futures contract shall require from the customer a margin of not less than the minimum prescribed thereunder. R.S.O. 1990, c. C.20, s. 41 (2).

Margin greater than minimum

(3)  Despite subsections (1) and (2), a registered dealer may require from the customer a margin greater than that prescribed under subsection (1) or (2). R.S.O. 1990, c. C.20, s. 41 (3).

Confirmation of trade re commodity futures contract

**42** (1)  Every registered dealer who has acted as an agent in connection with any trade in a commodity futures contract, including a trade upon the exercise of a commodity futures option, shall promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction, setting forth,

(a) the date of the transaction;

(b) the commodity and quantity bought or sold;

(c) the commodity futures exchange upon which the contract was traded;

(d) the delivery month and year;

(e) the price at which the contract was entered into;

(f) the name of the dealer, if any, used by the registered dealer as its agent to effect the trade; and

(g) the name of the salesperson, if any, in the transaction. R.S.O. 1990, c. C.20, s. 42 (1).

Coded identification

(2)  For the purposes of clauses (1) (f) and (g), a person or company or a salesperson may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesperson will be furnished to the customer on request. R.S.O. 1990, c. C.20, s. 42 (2).

Filing of code

(3)  Where a person or company uses a code or symbols for identification in a confirmation under subsection (1), the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning. R.S.O. 1990, c. C.20, s. 42 (3).

Disclosure of clients

(4)  Every dealer who has acted as agent in connection with any trade in a commodity futures contract shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or to or through whom the commodity was bought or sold. R.S.O. 1990, c. C.20, s. 42 (4).

Statement of purchase and sale

**43** Every registered dealer who has acted as an agent in connection with a liquidating trade in a commodity futures contract shall promptly send by prepaid mail or deliver to the customer in addition to the written confirmation required under section 42, a statement of purchase and sale setting forth,

(a) the dates of the initial transaction and liquidating trade;

(b) the commodity and quantity bought and sold;

(c) the commodity futures exchange upon which the contracts were traded;

(d) the delivery month and year;

(e) the prices on the initial transaction and on the liquidating trade;

(f) the gross profit or loss on the transactions;

(g) the commission; and

(h) the net profit or loss on the transactions. R.S.O. 1990, c. C.20, s. 43.

Monthly statement

**44** So long as any unexpired and unexercised commodity futures option or open commodity futures contract is outstanding in a customer’s account, every registered dealer shall promptly send by prepaid mail or deliver to each customer a written monthly statement, setting forth,

(a) the opening cash balance for the month in the customer’s account;

(b) all deposits, credits, withdrawals and debits to the customer’s account;

(c) the cash balance in the customer’s account;

(d) each unexpired and unexercised commodity futures option;

(e) the striking price of each unexpired and unexercised commodity futures option;

(f) each open commodity futures contract;

(g) the price at which each open commodity futures contract was entered into. R.S.O. 1990, c. C.20, s. 44.

Confirmation of trade re commodity futures option

**45** (1)  Every registered dealer who has acted as an agent in connection with any trade in a commodity futures option shall promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction setting forth,

(a) the date of the transaction;

(b) the type and number of commodity futures options;

(c) the commodity futures exchange upon which the contract was traded;

(d) the premium;

(e) the commodity futures contract that is the subject of the commodity futures option;

(f) the delivery month and year of the commodity futures contract that is the subject of the commodity futures option;

(g) the declaration date;

(h) the striking price;

(i) the name of the dealer, if any, used by the registered dealer as its agent to effect the trade;

(j) the commission, if any, charged in respect of the trade; and

(k) the name of the salesperson, if any, in the transaction. R.S.O. 1990, c. C.20, s. 45 (1).

Coded identification

(2)  For the purposes of clauses (1) (i) and (k), a person or company or a salesperson may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesperson will be furnished to the customer on request. R.S.O. 1990, c. C.20, s. 45 (2).

Filing of code

(3)  Where a person or company uses a code or symbols for identification in a confirmation under subsection (1), the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning. R.S.O. 1990, c. C.20, s. 45 (3).

Disclosure by agent

(4)  Every dealer who has acted as agent in connection with any trade in a commodity futures option shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or through whom the commodity futures option was obtained. R.S.O. 1990, c. C.20, s. 45 (4).

Segregation of funds

**46** (1)  All money, securities, property and proceeds of loans received or advanced by a registered dealer to margin, guarantee or secure the trades or contracts of customers and all funds accruing to customers, shall be segregated for the benefit of the customers for whom they are held, and the dealer shall separately account for all such money, securities, property, proceeds and funds so received or advanced, and shall not knowingly commingle such money, securities, property, proceeds and funds with the dealer’s own money, securities, property and funds. R.S.O. 1990, c. C.20, s. 46 (1).

Application

(2)  Subsection (1) does not apply to securities or property that are subject to a lien or charge in favour of the registered dealer under a written agreement, in a form approved by the Commission, to secure loans referred to in subsection (1). R.S.O. 1990, c. C.20, s. 46 (2); 1997, c. 19, s. 1 (3).

Commingling of segregated funds

(3)  Money, securities, property, proceeds and funds segregated under subsection (1) for the benefit of customers may be commingled. R.S.O. 1990, c. C.20, s. 46 (3).

Registered dealer not to use funds

(4)  No registered dealer shall knowingly use money, securities, property, proceeds or funds received from, advanced to or held for any customer to margin, guarantee or secure the trades or contracts or to secure or extend the credit of any customer other than the customer for whom such money, securities, property, proceeds or funds are held. R.S.O. 1990, c. C.20, s. 46 (4).

Residual financial interest

(5)  Despite subsection (1), a registered dealer may have a residual financial interest in a customer’s account and, from time to time, may advance from the dealer’s own funds sufficient funds to prevent any and all customer’s accounts from becoming undermargined. R.S.O. 1990, c. C.20, s. 46 (5).

Exemption on terms and conditions

(6)  Upon application by an interested person or company, the Commission may exempt any registered dealer or class of registered dealers from subsection (1) or (4), on such terms and conditions as in the opinion of the Commission provide reasonable protection for customers. R.S.O. 1990, c. C.20, s. 46 (6).

Exception

(7)  Despite subsection (1), where a registered dealer has a residual financial interest in a customer’s account or has advanced the dealer’s own funds to prevent any customer’s account from becoming undermargined, the dealer may draw upon that account or any other accounts of the same customer to the dealer’s own order to the extent of the dealer’s residual financial interest therein or to the extent of the actual advances made. R.S.O. 1990, c. C.20, s. 46 (7).

**Section Amendments with date in force (d/m/y)**

1997, c. 19, s. 1 (3) - 10/10/1997

Reports

**47** Every registered dealer shall deliver to the Commission, at such time or times as the Commission may require, reports as to transactions in contracts on the dealer’s own account or on behalf of any other person or company in such form as the Commission may prescribe. R.S.O. 1990, c. C.20, s. 47.

Order prohibiting calls to residences

**48** (1)  The Commission may, by order, suspend, cancel, restrict or impose terms and conditions upon the right of any person or company named or described in the order to,

(a) call at any residence; or

(b) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any contract. R.S.O. 1990, c. C.20, s. 48 (1); 1999, c. 9, s. 37 (1).

Hearing

(2)  The Commission shall not make an order under subsection (1) without giving the person or company affected an opportunity to be heard. 1999, c. 9, s. 37 (2).

“residence” defined

(3)  In this section,

“residence” includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto. R.S.O. 1990, c. C.20, s. 48 (3).

What constitutes calls

(4)  For the purposes of this section, a person or company shall be deemed conclusively to have called or telephoned where an officer, director or salesperson of the person or company calls or telephones on behalf of the person or company. R.S.O. 1990, c. C.20, s. 48 (4).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 37 (1, 2) - 14/12/1999

Representations prohibited

**49** (1)  No person or company, with the intention of effecting a trade in a contract, shall make any representation that the person or company or any other person or company,

(a) will refund all or any of the margin or premium; or

(b) assume all or any part of the obligation of another person or company under the contract. R.S.O. 1990, c. C.20, s. 49 (1).

Future value

(2)  No person or company, with the intention of effecting a trade in a contract, shall give any undertaking, written or oral, relating to the future value of such contract. R.S.O. 1990, c. C.20, s. 49 (2).

Use of name of another registrant

**50** No registrant shall use the name of another registrant on letterheads, forms, advertisements or signs, as correspondent or otherwise, unless the registrant is a partner, officer or agent of or is authorized so to do in writing by the other registrant. R.S.O. 1990, c. C.20, s. 50.

Registration not to be advertised

**51** No person or company shall hold himself, herself or itself out as being registered by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery that the person or company is registered. R.S.O. 1990, c. C.20, s. 51.

Holding out by unregistered person

**52** No person or company who is not registered shall, either directly or indirectly, hold himself, herself or itself out as being registered. R.S.O. 1990, c. C.20, s. 52.

Advertising approval by Commission

**53** No person or company shall make any representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of any registrant or upon the merits of any contract. R.S.O. 1990, c. C.20, s. 53.

Submission of advertising

**54** (1)  The Commission may, after giving the registered dealer an opportunity to be heard, and upon being satisfied that the registered dealer’s past conduct with respect to the use of advertising and sales literature affords reasonable grounds for belief that it is necessary for the protection of the public to do so, order that a registered dealer shall deliver to the Commission at least seven days before it is used, copies of all advertising and sales literature that the registered dealer proposes to use in connection with trading in contracts. R.S.O. 1990, c. C.20, s. 54 (1).

Definitions

(2)  For the purposes of this section,

“advertising” includes television and radio commercials, newspaper and magazine advertisements and all other sales material generally disseminated through the communications media; (“annonce publicitaire”)

“sales literature” includes records, videotapes and similar material, written matter and all other material, except terms and conditions of contracts and the written statement required under section 40, designed for use in a presentation to a customer or prospective customer, whether such material is given or shown to the customer. (“documents de promotion”) R.S.O. 1990, c. C.20, s. 54 (2).

Prohibition of advertising

(3)  Where the Commission has issued an order under subsection (1), the Director may prohibit the use of the advertising and sales literature so delivered or may require that deletions or changes be made prior to its use. R.S.O. 1990, c. C.20, s. 54 (3).

(4)  Repealed: 1999, c. 9, s. 38.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 38 - 14/12/1999

PART XII.1  
WHISTLE-BLOWING AND PROTECTION FROM REPRISALS

Whistle-blower submissions — Freedom of Information and Protection of Privacy Act

**54.1**(1)  This section applies if, for the purpose of making a whistle-blower submission, an individual provides information to the Commission in a form made available by the Commission for that purpose. 2023, c. 21, Sched. 1, s. 2.

No disclosure

(2)  The Commission shall not disclose, in response to a request for access under the Freedom of Information and Protection of Privacy Act, the identity of the individual, or any information or record that may reasonably be expected to reveal the identity of the individual, as the source of information that has been provided to the Commission. 2023, c. 21, Sched. 1, s. 2.

Same

(3)  Subsection (2) applies with respect to information provided to the Commission before, on or after the day section 2 of Schedule 1 to theBuilding a Strong Ontario Together Act (Budget Measures), 2023 comes into force. 2023, c. 21, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

[2016, c. 37, Sched. 4, s. 1](http://www.ontario.ca/laws/statute/S16037" \l "sched4s1) - 08/12/2016

[2017, c. 34, Sched. 7, s. 4](http://www.ontario.ca/laws/statute/S17034" \l "sched7s4) - 14/12/2017

[2021, c. 8, Sched. 9, s. 39 (23, 24)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s23) - 29/04/2022

[2023, c. 21, Sched. 1, s. 2](http://www.ontario.ca/laws/statute/S23021" \l "sched1s2) - 04/12/2023

No reprisals

**54.2**(1)  In this section,

“specified individual”, in relation to a person or company, means,

(a) an employee, officer or director of the person or company,

(b) an individual who provides services to the person or company under a contract, other than an employment contract, between the individual and the person or company, or

(c) an individual who is an incorporated employee of a personal services business within the meaning of subsection 125 (7) of the Income Tax Act (Canada) and who provides services to the person or company under a contract between the personal services business and the person or company. 2023, c. 21, Sched. 1, s. 2.

Prohibition on taking reprisal

(2)  No person or company, or other person or company acting on behalf of the person or company, shall take a reprisal against a specified individual because the specified individual has,

(a) sought advice about providing information, expressed an intention to provide information, or provided information to the person or company, the Commission, a recognized self-regulatory organization or a law enforcement agency, or a person or company acting under the authority of the Commission, of a recognized self-regulatory organization or of a law enforcement agency, about an act of the person or company, or of a person or company acting on behalf of the person or company, that has occurred, is ongoing or is about to occur, and that the specified individual reasonably believes is contrary to Ontario commodity futures law or a by-law or other regulatory instrument of a recognized self-regulatory organization; or

(b) in relation to information provided under clause (a), co-operated, testified or otherwise assisted, or expressed an intention to co-operate, testify or otherwise assist in,

(i) a review, investigation, examination or inspection authorized by the Commission, by a recognized self-regulatory organization or by a law enforcement agency, or

(ii) a proceeding under this Act, a proceeding of a recognized self-regulatory organization or a judicial proceeding. 2023, c. 21, Sched. 1, s. 2.

Same

(3)  For the purposes of subsection (2), a reprisal includes, without limitation,

(a) terminating or threatening to terminate the specified individual’s employment, contract, position or office;

(b) demoting, disciplining or suspending, or threatening to demote, discipline or suspend, the specified individual from their employment, position or office;

(c) imposing or threatening to impose a penalty, or withholding or threatening to withhold a benefit, related to the specified individual’s employment, contract, position or office;

(d) intimidating or coercing a specified individual in relation to their employment, contract, position or office; or

(e) otherwise detrimentally affecting the specified individual by any act or failure to act, regardless of whether the act or failure to act is related to the specified individual’s employment, contract, position or office, if any. 2023, c. 21, Sched. 1, s. 2.

Prohibition re agreements

(4)  A provision in an agreement, including a confidentiality agreement, is void to the extent that it precludes or purports to preclude a specified individual from,

(a) providing information described in clause (2) (a) to the Commission, a recognized self-regulatory organization or a law enforcement agency; or

(b) in relation to information provided under clause (2) (a), co-operating, testifying or otherwise assisting, or expressing an intention to co-operate, testify or otherwise assist in,

(i) a review, investigation, examination or inspection authorized by the Commission, by a recognized self-regulatory organization or by a law enforcement agency, or

(ii) a proceeding under this Act, a proceeding of a recognized self-regulatory organization or a judicial proceeding. 2023, c. 21, Sched. 1, s. 2.

Actions relating to reprisal

(5)  If a specified individual alleges that a person or company, or a person or company acting on behalf of the person or company, has taken a reprisal against them in contravention of subsection (2), the specified individual may, without limiting the steps they may otherwise take,

(a) in the case where arbitration is provided for under a collective agreement, make a complaint to be dealt with by final and binding settlement by arbitration under the collective agreement; or

(b) in any other case, either,

(i) bring an action in the Superior Court of Justice, or

(ii) if arbitration is provided for under an agreement other than a collective agreement, make a complaint to be dealt with by final and binding settlement by arbitration under the agreement. 2023, c. 21, Sched. 1, s. 2.

Burden of proof

(6)  In an arbitration or action under subsection (5), the burden of proof that the person or company did not take a reprisal against a specified individual in contravention of subsection (2) lies on that person or company. 2023, c. 21, Sched. 1, s. 2.

Remedies

(7)  The arbitrator or court may order one or more of the following remedies:

1. Reinstatement of the specified individual to their employment, contract, position or office, with the same seniority status that the specified individual would have had if the reprisal had not been taken.

2. Payment to the specified individual of two times the amount of compensation the specified individual would have been paid in connection with their employment, contract, position or office between the date of the reprisal and the date of the order if the reprisal had not been taken, with interest.

3. Payment to the specified individual of compensation, in the amount the arbitrator or court considers just, having regard to the reprisal to which the complaint or proceeding relates and any loss attributable to it. 2023, c. 21, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

[2023, c. 21, Sched. 1, s. 2](http://www.ontario.ca/laws/statute/S23021" \l "sched1s2) - 04/12/2023

PART XIII  
ENFORCEMENT

Offences, general

**55** (1)  Every person or company that,

(a) makes a statement in any material, evidence or information submitted to the Commission, a Director, any person acting under the authority of the Commission or the Chief Executive Officer of the Commission or any person appointed to make an investigation or examination under this Act that, in a material respect and at the time and in the light of the circumstances under which it is made, is misleading or untrue or does not state a fact that is required to be stated or that is necessary to make the statement not misleading;

(b) makes a statement in any application, release, report, return, financial statement or other document required to be filed or furnished under Ontario commodity futures law that, in a material respect and at the time and in the light of the circumstances under which it is made, is misleading or untrue or does not state a fact that is required to be stated or that is necessary to make the statement not misleading; or

(c) contravenes Ontario commodity futures law,

is guilty of an offence and on conviction is liable to a fine of not more than $5 million or to imprisonment for a term of not more than five years less a day, or to both. 1999, c. 9, s. 39; 2002, c. 22, s. 10 (1); 2021, c. 8, Sched. 9, s. 39 (25).

Defence

(2)  Without limiting the availability of other defences, no person or company is guilty of an offence under clause (1) (a) or (b) if the person or company did not know and in the exercise of reasonable diligence could not have known that the statement was misleading or untrue or that it omitted to state a fact that was required to be stated or that was necessary to make the statement not misleading in light of the circumstances in which it was made. 1999, c. 9, s. 39.

Same, ss. 60.0.1 and 60.0.2

(2.1)  Without limiting the availability of other defences, no person or company is guilty of an offence for failing to comply with subsection 60.0.1 (6) or 60.0.2 (6) if the person or company did not know, and in the exercise of reasonable diligence could not have known, that the act or course of conduct in which the person or company engaged caused the person or company to fail to comply with a sanction, condition, restriction, requirement, order or agreement mentioned in those subsections. 2023, c. 21, Sched. 1, s. 3.

Directors and officers

(3)  Every director or officer of a company or of a person other than an individual who authorizes, permits or acquiesces in the commission of an offence under subsection (1) by the company or person, whether or not a charge has been laid or a finding of guilt has been made against the company or person in respect of the offence under subsection (1), is guilty of an offence and is liable on conviction to a fine of not more than $5 million or to imprisonment for a term of not more than five years less a day, or to both. 1999, c. 9, s. 39; 2002, c. 22, s. 10 (2).

Consent of the Commission

(4)  No proceeding under this section shall be commenced except with the consent of the Commission. 1999, c. 9, s. 39.

Trial by provincial judge

(5)  The Commission or an agent for the Commission may by notice to the clerk of the court having jurisdiction in respect of an offence under this Act require that a provincial judge preside over the proceeding. 1999, c. 9, s. 39.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 39 - 14/12/1999

[2002, c. 22, s. 10 (1, 2)](http://www.ontario.ca/laws/statute/S02022" \l "s10s1) - 7/04/2003

[2021, c. 8, Sched. 9, s. 39 (25)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s25) - 29/04/2022

[2023, c. 21, Sched. 1, s. 3](http://www.ontario.ca/laws/statute/S23021" \l "sched1s3) - 04/12/2023

**56** Repealed: 1999, c. 9, s. 39.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 39 - 14/12/1999

Information containing more than one offence

**57** An information in respect of any contravention of this Act may be for one or more offences and no information, summons, warrant, conviction or other proceeding in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1990, c. C.20, s. 57.

Execution of warrant issued in another province

**58** (1)  Where a provincial judge, magistrate or justice of another province or territory of Canada issues a warrant for the arrest of any person on a charge of contravening any provision of a statute of such province or territory similar to this Act, the Ontario Court of Justice within the jurisdiction of which that person is or is suspected to be may, upon satisfactory proof of the handwriting of the provincial judge, magistrate or a justice who issued the warrant, make an endorsement thereon in a form approved by the Commission, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all police officers to execute the warrant and to take the person arrested thereunder either out of or anywhere in Ontario and to rearrest such person anywhere in Ontario. R.S.O. 1990, c. C.20, s. 58 (1); 1997, c. 19, s. 1 (3); 1999, c. 9, s. 40.

Prisoner in transit

(2)  Any police officer of Ontario or of any other province or territory of Canada who is passing through Ontario and who has in custody a person arrested in another province or territory under a warrant endorsed under subsection (1) is entitled to hold, take and rearrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. R.S.O. 1990, c. C.20, s. 58 (2).

**Section Amendments with date in force (d/m/y)**

1997, c. 19, s. 1 (3) - 10/10/1997

1999, c. 9, s. 40 - 14/12/1999

Freeze direction

**59** (1)  If the Commission considers it expedient for the due administration of Ontario commodity futures law or the regulation of the commodity futures markets in Ontario or expedient to assist in the due administration of the commodity futures laws or the regulation of the commodity futures markets in another jurisdiction, the Commission may,

(a) direct a person or company having on deposit or under its control or for safekeeping any funds, securities or property of any person or company to retain those funds, securities or property;

(b) direct a person or company to refrain from withdrawing any funds, securities or other property from another person or company who has them on deposit, under control or for safekeeping;

(c) direct a person or company to maintain funds, securities or other property, and to refrain from disposing of, transferring, dissipating or otherwise dealing with or diminishing the value of those funds, securities or other property; or

(d) direct a person or company holding or having under its control a contract of any person or company to liquidate the contract and to retain the proceeds of liquidation. 2014, c. 7, Sched. 5, s. 3 (1).

Duration

(1.1)  A direction under subsection (1) applies until the Commission in writing revokes the direction or consents to release funds, securities or property from the direction, or until the Superior Court of Justice orders otherwise. 2014, c. 7, Sched. 5, s. 3 (1).

Application

(2)  A direction under subsection (1) that names a bank or other financial institution shall apply only to the branches of the bank or other financial institution identified in the direction. 1999, c. 9, s. 41.

Exclusions

(3)  A direction under subsection (1) shall not apply to funds, securities or property in a recognized clearing house or to securities in process of transfer by a transfer agent unless the direction so states. 1999, c. 9, s. 41.

Certificate of pending litigation

(4)  The Commission may order that a direction under subsection (1) be certified to a land registrar or mining recorder and that it be registered or recorded against the lands or claims identified in the direction, and on registration or recording of the certificate it shall have the same effect as a certificate of pending litigation. 1999, c. 9, s. 41.

Review by court

(5)  As soon as practicable and not later than 10 days after a direction is issued under subsection (1), the Commission shall serve and file a notice of application in the Superior Court of Justice to continue the direction or for such other order as the court considers appropriate. 2010, c. 26, Sched. 3, s. 1.

Grounds for continuance or other order

(5.1)  An order may be made under subsection (5) if the court is satisfied that the order would be reasonable and expedient in the circumstances, having due regard to the public interest and,

(a) the due administration of Ontario commodity futures law or the commodity futures laws of another jurisdiction; or

(b) the regulation of commodity futures markets in Ontario or another jurisdiction. 2014, c. 7, Sched. 5, s. 3 (2).

Notice

(6)  A direction under subsection (1) may be made without notice but, in that event, copies of the direction shall be sent forthwith by such means as the Commission may determine to all persons and companies named in the direction. 1999, c. 9, s. 41.

Clarification or revocation

(7)  A person or company directly affected by a direction may apply to the Commission for clarification or to have the direction varied or revoked. 1999, c. 9, s. 41.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 41 - 14/12/1999

[2010, c. 26, Sched. 3, s. 1](http://www.ontario.ca/laws/statute/S10026" \l "sched3s1) - 8/12/2010

[2014, c. 7, Sched. 5, s. 3 (1, 2)](http://www.ontario.ca/laws/statute/S14007" \l "sched5s3s1) - 24/07/2014

Fraud and market manipulation

**59.1**(1)  A person or company shall not, directly or indirectly, engage or participate in any act, practice or course of conduct relating to commodities or contracts that the person or company knows or reasonably ought to know,

(a) results in or contributes to a misleading appearance of trading activity in, or an artificial price for, a commodity or contract; or

(b) perpetrates a fraud on any person or company. 2002, c. 22, s. 11.

Attempts

(2)  A person or company shall not, directly or indirectly, attempt to engage or participate in any act, practice or course of conduct that is contrary to subsection (1). 2013, c. 2, Sched. 2, s. 2.

**Section Amendments with date in force (d/m/y)**

[2002, c. 22, s. 11](http://www.ontario.ca/laws/statute/S02022" \l "s11) - 31/12/2005

[2013, c. 2, Sched. 2, s. 2](http://www.ontario.ca/laws/statute/S13002" \l "sched2s2) - 21/06/2013

Misleading or untrue statements

**59.2**A person or company shall not make a statement that the person or company knows or reasonably ought to know,

(a) in a material respect and at the time and in the light of the circumstances under which it is made, is misleading or untrue or does not state a fact that is required to be stated or that is necessary to make the statement not misleading; and

(b) would reasonably be expected to have a significant effect on the market price or value of a commodity or contract. 2002, c. 22, s. 11; 2004, c. 31, Sched. 6, s. 1.

**Section Amendments with date in force (d/m/y)**

[2002, c. 22, s. 11](http://www.ontario.ca/laws/statute/S02022" \l "s11) - 31/12/2005

[2004, c. 31, Sched. 6, s. 1](http://www.ontario.ca/laws/statute/S04031" \l "sched6s1) - 31/12/2005

Benchmark — false or misleading information

**59.3**(1)  A person or company shall not, directly or indirectly, engage or participate in the provision of information to another person or company for the purpose of determining a benchmark if the person or company knows or reasonably ought to know that the information, at the time and in the circumstances in which it is provided, is false or misleading. 2018, c. 17, Sched. 7, s. 3.

Attempt

(2)  A person or company shall not, directly or indirectly, attempt to engage or participate in the conduct described in subsection (1). 2018, c. 17, Sched. 7, s. 3.

**Section Amendments with date in force (d/m/y)**

[2018, c. 17, Sched. 7, s. 3](http://www.ontario.ca/laws/statute/S18017" \l "sched7s3) - 06/12/2018

Benchmark manipulation

**59.4**(1)  A person or company shall not, directly or indirectly, engage or participate in conduct relating to a benchmark that improperly influences the determination of the benchmark or produces or contributes to the production of a false or misleading determination of the benchmark. 2018, c. 17, Sched. 7, s. 3.

Attempt

(2)  A person or company shall not, directly or indirectly, attempt to engage or participate in the conduct described in subsection (1). 2018, c. 17, Sched. 7, s. 3.

**Section Amendments with date in force (d/m/y)**

[2018, c. 17, Sched. 7, s. 3](http://www.ontario.ca/laws/statute/S18017" \l "sched7s3) - 06/12/2018

Orders in the public interest

**60** (1)  The Tribunal may make one or more of the following orders if, in its opinion, it is in the public interest to make the order or orders:

1. An order that the registration or recognition granted to a person or company under Ontario commodity futures law be suspended or restricted for such period as is specified in the order or be terminated, or that terms and conditions be imposed on the registration or recognition.

2. An order that the acceptance of the form of a contract be revoked.

2.1 An order that a person or company cease trading in any contracts permanently or for such period as is specified in the order.

3. An order that any exemptions contained in Ontario commodity futures law do not apply to a person or company permanently or for such period as is specified in the order.

4. An order that a market participant submit to a review of his, her or its practices and procedures and institute such changes as may be ordered by the Tribunal.

5. If the Tribunal is satisfied that Ontario commodity futures law has not been complied with, an order that a release, report, return, financial statement or other document described in the order,

i. be provided by a market participant to a person or company,

ii. not be provided by a market participant to a person or company, or

iii. be amended by a market participant to the extent that amendment is practicable.

6. An order that a person or company be reprimanded.

7. An order that a person resign one or more positions that the person holds as a director or officer of an issuer.

8. An order that a person is prohibited from becoming or acting as a director or officer of any issuer.

9. If a person or company has not complied with Ontario commodity futures law, an order requiring the person or company to pay an administrative penalty of not more than $1 million for each failure to comply.

10. If a person or company has not complied with Ontario commodity futures law, an order requiring the person or company to disgorge to the Commission any amounts obtained as a result of the non-compliance. 1999, c. 9, s. 41; 2002, c. 22, s. 12 (1); 2017, c. 8, Sched. 5, s. 3 (1); 2021, c. 8, Sched. 9, s. 39 (26, 27).

Order by Commission on consent

(1.1)  The Commission may make any order described in paragraph 1, 2 or 2.1 of subsection (1) if the Commission has the consent of the person or company to whom the order is directed, and in such circumstances no hearing is required, despite subsection (3). 2021, c. 8, Sched. 9, s. 39 (28); 2023, c. 21, Sched. 1, s. 4 (1).

Terms and conditions

(2)  An order under this section may be subject to such terms and conditions as may be imposed by the Tribunal or the Commission, as the case may be. 2021, c. 8, Sched. 9, s. 39 (29).

Exception

(2.1)  A person or company is not entitled to participate in a proceeding in which an order may be made under paragraph 9 or 10 of subsection (1) solely on the basis that the person or company may be entitled to receive any amount paid under the order. 2004, c. 31, Sched. 6, s. 2.

Hearing requirement

(3)  No order shall be made under this section without a hearing, subject to section 4 of the Statutory Powers Procedure Act. 1999, c. 9, s. 41.

No hearing if prior conviction, etc.

(3.1)  Despite subsection (3), if any of the following circumstances exist, the Tribunal may make an order described in paragraphs 1 to 8 of subsection (1) without giving the person or company that is subject to the order an opportunity to be heard:

1. The person or company has been found by a court in any jurisdiction to have contravened the laws of the jurisdiction respecting commodities or contracts.

2. The person or company has been convicted in any jurisdiction of an offence under laws respecting commodities or contracts.

3. The person or company has been convicted in any jurisdiction of an offence arising from a transaction, business or course of conduct related to commodities or contracts. 2023, c. 21, Sched. 1, s. 4 (2).

No hearing if prior order of certain regulators

(3.2)  Despite subsection (3), if any of the following circumstances exist, the Tribunal may make an order described in paragraphs 1 to 8 of subsection (1) without giving the person or company that is subject to the order an opportunity to be heard:

1. The person or company is subject to an order made by an authority responsible for the regulation of commodities and contracts outside Canada, as defined in subsection (9), imposing sanctions, conditions, restrictions or requirements.

2. The person or company is subject to an order made by an authority responsible for the regulation of commodities and contracts of another province or territory in Canada, as defined in subsection (9), imposing sanctions, conditions, restrictions or requirements.

3. The person or company is subject to an order made by a recognized self-regulatory organization in Canada imposing sanctions, conditions, restrictions or requirements.

4. The person or company is subject to an order made by an exchange in Canada imposing sanctions, conditions, restrictions or requirements. 2023, c. 21, Sched. 1, s. 4 (2).

No hearing if prior settlement agreement with certain regulators

(3.3)  Despite subsection (3), if any of the following circumstances exist, the Tribunal may make an order described in paragraphs 1 to 8 of subsection (1) without giving the person or company who is subject to the order an opportunity to be heard:

1. The person or company has agreed with an authority responsible for the regulation of commodities and contracts outside Canada, as defined in subsection (9), to be subject to sanctions, conditions, restrictions or requirements.

2. The person or company has agreed with an authority responsible for the regulation of commodities and contracts of another province or territory in Canada, as defined in subsection (9), to be subject to sanctions, conditions, restrictions or requirements.

3. The person or company has agreed with a recognized self-regulatory organization in Canada to be subject to sanctions, conditions, restrictions or requirements.

4. The person or company has agreed with an exchange in Canada to be subject to sanctions, conditions, restrictions or requirements. 2023, c. 21, Sched. 1, s. 4 (2).

Retrospective application

(3.4)  The Tribunal may make an order under subsections (3.1) to (3.3) even if the circumstances mentioned in those subsections arose before the day the Building a Strong Ontario Together Act (Budget Measures), 2023 received Royal Assent. 2023, c. 21, Sched. 1, s. 4 (2).

Temporary orders, Tribunal

(4)  Despite subsection (3), if in the opinion of the Tribunal the length of time required to conclude a hearing could be prejudicial to the public interest, the Tribunal may make a temporary order under paragraph 1, 2, 2.1 or 3 or subparagraph 5 ii of subsection (1). 2021, c. 8, Sched. 9, s. 39 (30).

Temporary orders, Commission

(4.1)  Despite subsection (3), if in the opinion of the Commission the length of time required to conclude a hearing could be prejudicial to the public interest, the Commission may make a temporary order under paragraph 1, 2, 2.1 or 3 or subparagraph 5 ii of subsection (1). 2021, c. 8, Sched. 9, s. 39 (30).

Period of temporary order

(5)  A temporary order made under subsection (4) or (4.1) takes effect immediately and expires on the 15th day after its making unless extended by the Tribunal. 2021, c. 8, Sched. 9, s. 39 (31).

Extension of temporary order by Tribunal

(6)  The Tribunal may extend a temporary order made under subsection (4) or (4.1) until the hearing is concluded if a hearing is commenced within the 15-day period. 2021, c. 8, Sched. 9, s. 39 (31).

Same

(7)  Despite subsection (6), the Tribunal may extend a temporary order made under subsection (4) or (4.1) for such period as it considers necessary if satisfactory information is not provided to the Tribunal within the 15-day period. 2021, c. 8, Sched. 9, s. 39 (31).

Notice of temporary order

(8)  The Tribunal shall give written notice of every temporary order made under subsection (4), together with a notice of hearing, to any person or company directly affected by the temporary order. 1999, c. 9, s. 41; 2021, c. 8, Sched. 9, s. 39 (32).

Same, temporary order by Commission

(8.1)  The Commission shall give written notice of every temporary order made under subsection (4.1), together with a notice of hearing, to any person or company directly affected by the temporary order. 2021, c. 8, Sched. 9, s. 39 (33).

Definitions

(9)  In subsections (3.2) and (3.3) and sections 60.0.1 and 60.0.2,

“authority responsible for the regulation of commodities and contracts of another province or territory in Canada” means an authority or other person or body empowered by law to regulate commodities or contracts in, or to administer or enforce the commodity futures laws of, another province or territory in Canada, or any other person or body prescribed by a regulation, but does not include a self-regulatory organization, exchange, clearing house, trade repository, quotation and trade reporting system, auditor oversight body or credit rating organization; (“organisme de réglementation des marchandises et des contrats d’une autre province ou d’un territoire du Canada”)

“authority responsible for the regulation of commodities and contracts outside Canada” means an authority, self-regulatory organization, exchange or other person or body empowered by law to regulate commodities or contracts in, or to administer or enforce the commodity futures laws of, a jurisdiction outside Canada. (“organisme étranger de réglementation des marchandises et des contrats”) 2023, c. 21, Sched. 1, s. 4 (3).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 41 - 14/12/1999

[2002, c. 22, s. 12 (1, 2)](http://www.ontario.ca/laws/statute/S02022" \l "s12s1) - 7/04/2003

[2004, c. 31, Sched. 6, s. 2](http://www.ontario.ca/laws/statute/S04031" \l "sched6s2) - 16/12/2004

[2008, c. 19, Sched. B, s. 1](http://www.ontario.ca/laws/statute/S08019" \l "schedbs1) - 27/11/2008

[2017, c. 8, Sched. 5, s. 3 (1-3)](http://www.ontario.ca/laws/statute/S17008" \l "sched5s3s1) - 17/05/2017; [2017, c. 34, Sched. 7, s. 5](http://www.ontario.ca/laws/statute/S17034" \l "sched7s5) - 14/12/2017

[2021, c. 8, Sched. 9, s. 39 (26-34)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s26) - 29/04/2022

[2023, c. 21, Sched. 1, s. 4 (1-3)](http://www.ontario.ca/laws/statute/S23021" \l "sched1s4s1) - 04/12/2023

Automatic application of certain orders of other provinces and territories

**60.0.1**(1)  This section applies with respect to an order made by an authority responsible for the regulation of commodities and contracts of another province or territory in Canada, as defined in subsection 60 (9), if,

(a) the order imposes sanctions, conditions, restrictions or requirements on a person or company; and

(b) the order arose as a result of a finding or an admission of a contravention by the person or company of the laws of that province or territory respecting commodities or contracts, or a finding or an admission of conduct contrary to the public interest. 2023, c. 21, Sched. 1, s. 5.

Automatic application in Ontario

(2)  The order made by the authority responsible for the regulation of commodities and contracts of the other province or territory applies in Ontario, without notice to the person or company and without an opportunity to be heard, as if the order were made by the Tribunal with such modifications as the circumstances require, to the extent that the Tribunal or the Commission has the power to impose a similar sanction, condition, restriction or requirement. 2023, c. 21, Sched. 1, s. 5.

Public access to orders

(3)  The Commission shall, on its website, provide access to a publicly available source where orders that apply in Ontario under subsection (2) can be found. 2023, c. 21, Sched. 1, s. 5.

Application for clarification

(4)  The Chief Executive Officer of the Commission or a person or company directly affected by an order described in subsection (1) may apply to the Tribunal for clarification of the application of subsection (2) in respect of an order described in subsection (1). 2023, c. 21, Sched. 1, s. 5.

Same

(5)  After giving the Chief Executive Officer of the Commission and the person or company an opportunity to be heard on an application under subsection (4), the Tribunal may make an order concerning the application of subsection (2), and the Tribunal’s order is binding on the person or company and on the Commission. 2023, c. 21, Sched. 1, s. 5.

Duty to comply

(6)  A person or company who is subject to sanctions, conditions, restrictions or requirements imposed in an order that applies in Ontario under subsection (2) shall comply with the order and with any related order made under subsection (5). 2023, c. 21, Sched. 1, s. 5.

Payment obligations excluded

(7)  A person or company is not liable, as a result of the operation of subsection (2), to pay to the Commission or to another person or company any amount that the person or company is liable to pay under the order made by the authority responsible for the regulation of commodities and contracts of the other province or territory. 2023, c. 21, Sched. 1, s. 5.

Amendment, variation of original order

(8)  If the order made by the authority responsible for the regulation of commodities and contracts of the other province or territory is amended or varied under the laws of that province or territory, the order as amended or varied applies in Ontario under subsection (2). 2023, c. 21, Sched. 1, s. 5.

Revocation, etc., of original order

(9)  If the order made by the authority responsible for the regulation of commodities and contracts of the other province or territory is overturned, vacated, revoked or otherwise held to be of no effect pursuant to the laws of that province or territory, the order does not apply in Ontario under subsection (2). 2023, c. 21, Sched. 1, s. 5.

No appeal

(10)  Orders that apply in Ontario under subsection (2) and orders made by the Tribunal under subsection (5) are not subject to appeal under this Act. 2023, c. 21, Sched. 1, s. 5.

**Section Amendments with date in force (d/m/y)**

[2023, c. 21, Sched. 1, s. 5](http://www.ontario.ca/laws/statute/S23021" \l "sched1s5) - 04/12/2023

Automatic application of certain settlement agreements of other provinces and territories

**60.0.2**(1)  This section applies with respect to an agreement entered into between a person or company and an authority responsible for the regulation of commodities and contracts of another province or territory in Canada, as defined in subsection 60 (9), relating to,

(a) a finding or an admission of a contravention by the person or company of the laws of that province or territory respecting commodities or contracts; or

(b) a finding or an admission of conduct contrary to the public interest by the person or company. 2023, c. 21, Sched. 1, s. 5.

Automatic application in Ontario

(2)  If a person or company is subject to a sanction, condition, restriction or requirement pursuant to an agreement described in subsection (1), the agreement has the same effect in Ontario and the sanction, condition, restriction or requirement imposed under that agreement applies in Ontario, without notice to the person or company and without an opportunity to be heard, as if the agreement had been made with the Commission with such modifications as the circumstances require, to the extent that the Tribunal has the power to impose a similar sanction, condition, restriction or requirement. 2023, c. 21, Sched. 1, s. 5.

Public access to settlement agreements, etc.

(3)  The Commission shall, on its website, provide access to a publicly available source where the agreement that imposes the sanctions, conditions, restrictions or requirements that apply in Ontario under subsection (2) can be found. 2023, c. 21, Sched. 1, s. 5.

Application for clarification

(4)  The Chief Executive Officer of the Commission or a person or company who is subject to an agreement described in subsection (1) may apply to the Tribunal for clarification of the application of subsection (2) in respect of an agreement described in subsection (1). 2023, c. 21, Sched. 1, s. 5.

Same

(5)  After giving the Chief Executive Officer of the Commission and the person or company an opportunity to be heard on an application under subsection (4), the Tribunal may make an order concerning the application of subsection (2), and the Tribunal’s order is binding on the person or company and on the Commission. 2023, c. 21, Sched. 1, s. 5.

Duty to comply

(6)  A person or company who is subject to sanctions, conditions, restrictions or requirements that apply in Ontario under subsection (2) shall comply with them and with any related order made under subsection (5). 2023, c. 21, Sched. 1, s. 5.

Payment obligations excluded

(7)  A person or company is not liable, as a result of the operation of subsection (2), to pay to the Commission or to another person or company any amount that the person or company is liable to pay under the agreement. 2023, c. 21, Sched. 1, s. 5.

Amendment, variation of agreement

(8)  If the agreement is amended or varied under the laws of the other province or territory, the sanctions, conditions, restrictions or requirements imposed under the agreement as amended or varied apply in Ontario under subsection (2). 2023, c. 21, Sched. 1, s. 5.

Revocation, etc., of agreement

(9)  If the agreement is set aside, revoked or otherwise held to be of no effect pursuant to the laws of the other province or territory, the sanctions, conditions, restrictions or requirements that were imposed under it do not apply in Ontario under subsection (2). 2023, c. 21, Sched. 1, s. 5.

No appeal

(10)  Sanctions, conditions, restrictions or requirements that apply in Ontario under subsection (2) and orders made by the Tribunal under subsection (5) are not subject to appeal under this Act. 2023, c. 21, Sched. 1, s. 5.

**Section Amendments with date in force (d/m/y)**

[2023, c. 21, Sched. 1, s. 5](http://www.ontario.ca/laws/statute/S23021" \l "sched1s5) - 04/12/2023

Payment of investigation costs

**60.1**(1)  If, in respect of a person or company whose affairs were the subject of an investigation, the Tribunal,

(a) is satisfied that the person or company has not complied with, or is not complying with, Ontario commodity futures law; or

(b) considers that the person or company has not acted in the public interest,

the Tribunal may, after conducting a hearing, order the person or company to pay the costs of the investigation. 2021, c. 8, Sched. 9, s. 39 (35).

Payment of hearing costs

(2)  If, in respect of a person or company whose affairs were the subject of a hearing, the Tribunal, after conducting the hearing,

(a) is satisfied that the person or company has not complied with, or is not complying with, Ontario commodity futures law; or

(b) considers that the person or company has not acted in the public interest,

the Tribunal may order the person or company to pay the costs of or related to the hearing that are incurred by or on behalf of the Commission. 2021, c. 8, Sched. 9, s. 39 (35).

Payment of costs where offence

(3)  Where a person or company is guilty of an offence under this Act or the regulations, the Tribunal may, after conducting a hearing, order the person or company to pay the costs of any investigation carried out in respect of that offence. 2021, c. 8, Sched. 9, s. 39 (35).

Costs

(4)  For the purposes of subsections (1), (2) and (3), the costs that the Tribunal may order the person or company to pay include, but are not limited to, all or any of the following:

1. Costs incurred in respect of services provided by persons appointed or engaged under section 3, 7 or 8.

2. Costs of matters preliminary to the hearing.

3. Costs for time spent by the Commission or the staff of the Commission.

4. Any fee paid to a witness.

5. Costs of legal services provided to the Commission. 2021, c. 8, Sched. 9, s. 39 (35).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 41 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (35)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s35) - 29/04/2022

Applications to court

**60.2**(1)  The Commission may apply to the Superior Court of Justice for a declaration that a person or company has not complied with or is not complying with Ontario commodity futures law. 1999, c. 9, s. 41.

Prior hearing not required

(2)  The Commission is not required, before making an application under subsection (1), to hold a hearing to determine whether the person or company has not complied with or is not complying with Ontario commodity futures law. 1999, c. 9, s. 41.

Remedial powers of court

(3)  If the court makes a declaration under subsection (1), the court may, despite the imposition of any penalty under section 55 and despite any order made under section 60 by the Commission or the Tribunal, make any order that the court considers appropriate against the person or company, including, without limiting the generality of the foregoing, one or more of the following orders:

1. An order that the person or company comply with Ontario commodity futures law.

2. An order requiring the person or company to submit to a review by the Commission of his, her or its practices and procedures and to institute such changes as may be directed by the Commission.

3. An order that a release, report, return, financial statement or any other document described in the order,

i. be provided by the person or company to another person or company,

ii. not be provided by the person or company to another person or company,

iii. be amended by the person or company to the extent that amendment is practicable.

4. An order prohibiting the voting or exercise of any other right attaching to securities by the person or company.

5. An order prohibiting the person from acting as officer or director of any market participant permanently or for such period as is specified in the order.

6. An order appointing officers and directors in place of, or in addition to, all or any of the officers and directors of the company then in office.

7. An order requiring the person or company to produce to the court or an interested person financial statements in the form required by Ontario commodity futures law, or an accounting in such other form as the court may determine.

8. An order directing rectification of the registers or other records of the company.

9. An order requiring the person or company to compensate or make restitution to an aggrieved person or company.

10. An order requiring the person or company to pay general or punitive damages to any other person or company.

11. An order requiring the person or company to disgorge to the Minister any amounts obtained as a result of the non-compliance with Ontario commodity futures law.

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 11 of subsection 60.2 (3) of the Act is repealed and the following substituted: (See: 2023, c. 21, Sched. 1, s. 6)

11. An order requiring the person or company to disgorge to the Commission any amounts obtained as a result of the non-compliance with Ontario commodity futures law.

12. An order requiring the person or company to rectify any past non-compliance with Ontario commodity futures law to the extent that rectification is practicable. 1999, c. 9, s. 41; 2021, c. 8, Sched. 9, s. 39 (36).

Interim orders

(4)  On an application under this section the court may make such interim orders as it considers appropriate. 1999, c. 9, s. 41.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 41 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (36)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s36) - 29/04/2022

[2023, c. 21, Sched. 1, s. 6](http://www.ontario.ca/laws/statute/S23021" \l "sched1s6) - not in force

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2023, c. 21, Sched. 1, s. 7)

Disgorgement orders

**60.2.1**(1)  This section applies with respect to orders made under paragraph 10 of subsection 60 (1) and paragraph 11 of subsection 60.2 (3). 2023, c. 21, Sched. 1, s. 7.

Distribution of disgorged amount

(2)  In the circumstances prescribed by the regulations, all or part of the disgorged amount received by the Commission shall be distributed in accordance with this section and the regulations to persons or companies who,

(a) incurred direct financial losses as a result of the contravention giving rise to the payment; and

(b) satisfy such conditions, restrictions and requirements as may be prescribed. 2023, c. 21, Sched. 1, s. 7.

Application for payment

(3)  If the regulations require a distribution, persons or companies described in subsection (2) may apply for a payment from the disgorged amount and shall do so in accordance with any applicable court order or regulation. 2023, c. 21, Sched. 1, s. 7.

Court appointment of administrator

(4)  On application by the Commission, the Superior Court of Justice may make an order appointing one or more persons or companies to administer and distribute all or any part of the disgorged amount if the court is satisfied that the appointment is appropriate for the due administration of Ontario commodity futures law. 2023, c. 21, Sched. 1, s. 7.

Commission as court-appointed administrator

(5)  The Commission may be appointed under subsection (4). 2023, c. 21, Sched. 1, s. 7.

Powers and duties, etc.

(6)  The court order shall specify the administrator’s powers and duties and the process for distributing any disgorged amount and may include such terms as the court considers just and expedient in the circumstances. 2023, c. 21, Sched. 1, s. 7.

Variation or revocation of order

(7)  The court order may be varied or revoked by the court on application by the Commission or by the court-appointed administrator. 2023, c. 21, Sched. 1, s. 7.

Payment to applicant

(8)  The court-appointed administrator may, in accordance with the court order, make a payment to an applicant from the disgorged amount administered under the court order. 2023, c. 21, Sched. 1, s. 7.

Administrative costs, court-appointed administrator

(9)  The following administrative costs are eligible to be paid to a court-appointed administrator from the disgorged amount or, in accordance with the regulations, from money described in subclause 19 (2) (b) (iii) or clause 19 (2) (c) of the Securities Commission Act, 2021:

1. The reasonable costs incurred by the administrator, before their appointment, in connection with the disgorged amount.

2. The reasonable costs incurred by the administrator in connection with court orders made under this section. 2023, c. 21, Sched. 1, s. 7.

If no court-appointed administrator

(10)  If the regulations require a distribution and there is no court-appointed administrator for all or a part of a disgorged amount, the Commission shall administer and distribute the disgorged amount or the part, as the case may be, in accordance with the regulations. 2023, c. 21, Sched. 1, s. 7.

Same, payment to applicant

(11)  The Commission may, in accordance with the regulations, make a payment to an applicant from the disgorged amount administered by the Commission under subsection (10). 2023, c. 21, Sched. 1, s. 7.

Administrative costs, no court-appointed administrator

(12)  In the circumstances described in subsection (10), the following administrative costs are eligible to be paid to the Commission from a disgorged amount or, in accordance with the regulations, from money described in subclause 19 (2) (b) (iii) or clause 19 (2) (c) of the Securities Commission Act, 2021:

1. The reasonable costs of obtaining external advice related to a distribution of the disgorged amount. 2023, c. 21, Sched. 1, s. 7.

Operating costs not recoverable

(13)  The Commission’s normal operating costs are not eligible to be paid as administrative costs under subsection (9) or (12). 2023, c. 21, Sched. 1, s. 7.

Disgorged amount — distribution

(14)  Any disgorged amount remaining after payments are made under subsections (8), (9), (11) and (12) belongs to the Commission and shall be dealt with in accordance with subsection 19 (2) of the Securities Commission Act, 2021. 2023, c. 21, Sched. 1, s. 7.

Disgorged amount — no distribution

(15)  If the regulations do not require a distribution, the disgorged amount belongs to the Commission and shall be dealt with in accordance with subsection 19 (2) of the Securities Commission Act, 2021. 2023, c. 21, Sched. 1, s. 7.

Limitation re participation in proceeding

(16)  A person or company is not entitled to participate in a proceeding in which an order may be made under this section solely on the basis that the person or company may be eligible to receive a payment under subsection (8) or (11). 2023, c. 21, Sched. 1, s. 7.

**Section Amendments with date in force (d/m/y)**

[2023, c. 21, Sched. 1, s. 7](http://www.ontario.ca/laws/statute/S23021" \l "sched1s7) - not in force

Appointment of receiver, etc.

**60.3**(1)  The Commission may apply to the Superior Court of Justice for an order appointing a receiver, receiver and manager, trustee or liquidator of all or any part of the property of any person or company. 1999, c. 9, s. 41.

Grounds

(2)  No order shall be made under subsection (1) unless the court is satisfied that,

(a) the appointment of a receiver, receiver and manager, trustee or liquidator of all or any part of the property of the person or company is in the best interests of the creditors of the person or company or of persons or companies any of whose property is in the possession or under the control of the person or company or the security holders of, or subscribers to, the person or company; or

(b) it is appropriate for the due administration of Ontario commodity futures law. 1999, c. 9, s. 41.

Application without notice

(3)  The court may make an order under subsection (1) on an application without notice, but the period of appointment shall not exceed 15 days. 1999, c. 9, s. 41.

Motion to continue order

(4)  If an order is made without notice under subsection (3), the Commission may make a motion to the court within 15 days after the date of the order to continue the order or for the issuance of such other order as the court considers appropriate. 1999, c. 9, s. 41.

Powers of receiver, etc.

(5)  A receiver, receiver and manager, trustee or liquidator of the property of a person or company appointed under this section shall be the receiver, receiver and manager, trustee or liquidator of all or any part of the property belonging to the person or company or held by the person or company on behalf of, or in trust for, any other person or company, and, if so directed by the court, the receiver, receiver and manager, trustee or liquidator has the authority to wind up or manage the business and affairs of the person or company and has all powers necessary or incidental to that authority. 1999, c. 9, s. 41.

Directors’ powers cease

(6)  If an order is made appointing a receiver, receiver and manager, trustee or liquidator of the property of a person or company under this section, the powers of the directors of the company that the receiver, receiver and manager, trustee or liquidator is authorized to exercise may not be exercised by the directors until the receiver, receiver and manager, trustee or liquidator is discharged by the court. 1999, c. 9, s. 41.

Fees and expenses

(7)  The fees charged and expenses incurred by a receiver, receiver and manager, trustee or liquidator appointed under this section in relation to the exercise of powers pursuant to the appointment shall be in the discretion of the court. 1999, c. 9, s. 41.

Variation or discharge of order

(8)  An order made under this section may be varied or discharged by the court on motion. 1999, c. 9, s. 41.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 41 - 14/12/1999

Limitation period

**60.4**Except where otherwise provided in this Act, no proceeding under this Act shall be commenced later than six years from the date of the occurrence of the last event on which the proceeding is based. 1999, c. 9, s. 41.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 41 - 14/12/1999

Directors and officers

**60.5**For the purposes of this Act, if a company or a person other than an individual has not complied with Ontario commodity futures law, a director or officer of the company or person who authorized, permitted or acquiesced in the non-compliance shall be deemed to also have not complied with Ontario commodity futures law, whether or not any proceeding has been commenced against the company or person under Ontario commodity futures law or any order has been made against the company or person under section 60. 2002, c. 22, s. 13.

**Section Amendments with date in force (d/m/y)**

[2002, c. 22, s. 13](http://www.ontario.ca/laws/statute/S02022" \l "s13) - 7/04/2003

PART XIV  
GENERAL PROVISIONS

Refunds

**61** Where,

(a) an application for registration or renewal of registration is abandoned;

(b) an application for recognition of a commodity futures exchange is abandoned; or

(c) an application for acceptance of the form of contract is abandoned,

the Director may, upon the application of the person or company who made the application recommend to the Minister of Finance that a refund of the fee paid on the making of the application or such part thereof as he or she considers fair and reasonable be made, and the Minister may make such refund from the Consolidated Revenue Fund. R.S.O. 1990, c. C.20, s. 61; 2009, c. 33, Sched. 16, s. 2 (2).

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 16, s. 2 (2)](http://www.ontario.ca/laws/statute/S09033" \l "sched16s2s2) - 15/12/2009

Admissibility in evidence of certified statements

**62** A statement as to,

(a) the registration or non-registration of any person or company;

(b) the filing or non-filing of any document or material required or permitted to be filed;

(c) a matter in addition to a matter set out in clauses (a) and (b) that pertains to registration, non-registration, filing or non-filing, or to any person, company, document or material; or

(d) the date of the facts upon which any proceedings are to be based first came to the knowledge of the Commission,

purporting to be certified by the Commission or a member thereof, or by the Director is, without proof of the office or signature of the person certifying, admissible in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. R.S.O. 1990, c. C.20, s. 62.

**62.1**Repealed: 2021, c. 8, Sched. 9, s. 39 (37).

**Section Amendments with date in force (d/m/y)**

[2017, c. 8, Sched. 5, s. 4](http://www.ontario.ca/laws/statute/S17008" \l "sched5s4) - 17/05/2017

[2021, c. 8, Sched. 9, s. 39 (37)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s37) - 29/04/2022

Material available for inspection

**63** (1)  Where Ontario commodity futures law requires that material be filed, the filing shall be effected by depositing the material, or causing it to be deposited, with the Commission and all material so filed shall, subject to subsection (2), be made available by the Commission for public inspection during the normal business hours of the Commission. R.S.O. 1990, c. C.20, s. 63 (1); 1999, c. 9, s. 42 (1).

Idem

(2)  Despite subsection (1), the Commission may hold material or any class of material required to be filed by Ontario commodity futures law in confidence so long as the Commission is of the opinion that the material so held discloses intimate financial, personal or other information and that the desirability of avoiding disclosure thereof in the interests of any person or company affected outweighs the desirability of adhering to the principle that material filed with the Commission be available to the public for inspection. R.S.O. 1990, c. C.20, s. 63 (2); 1999, c. 9, s. 42 (2).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 42 (1, 2) - 14/12/1999

Immunity

**64** No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company for,

(a) any act or omission of the last-mentioned person or company done or omitted in compliance with Ontario commodity futures law; or

(b) any disclosure of information by the last-mentioned person or company to the Commission, to a recognized self-regulatory organization, to a law enforcement agency or to any person or company acting under the authority of the Commission, of the recognized self-regulatory organization or of the law enforcement agency, if the person or company reasonably believed that the information was true and they,

(i) reasonably believed that the information was related to an offence or to a contravention of Ontario commodity futures law, or

(ii) provided the information as part of a review, investigation, examination or inspection by the Commission or the recognized self-regulatory organization or as part of a review, investigation, examination or inspection in respect of Ontario commodity futures law by the law enforcement agency. 2023, c. 21, Sched. 1, s. 8.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 43 (1, 2) - 14/12/1999

[2009, c. 33, Sched. 16, s. 2 (3)](http://www.ontario.ca/laws/statute/S09033" \l "sched16s2s3) - 15/12/2009

[2010, c. 26, Sched. 3, s. 2](http://www.ontario.ca/laws/statute/S10026" \l "sched3s2) - 08/12/2010

[2019, c. 7, Sched. 17, s. 51](http://www.ontario.ca/laws/statute/S19007" \l "sched17s51) - 01/07/2019

[2021, c. 8, Sched. 9, s. 39 (38)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s38) - 29/04/2022

[2023, c. 21, Sched. 1, s. 8](http://www.ontario.ca/laws/statute/S23021" \l "sched1s8) - 04/12/2023

Part XV  
Rules, Regulations and Policies

Rules

**65** (1)  The Commission may make rules in respect of the following matters:

1. Prescribing requirements in respect of applications for registration and the renewal, amendment, expiration or surrender of registration and in respect of suspension, cancellation or reinstatement of registration.

1.1 Prescribing circumstances in which a suspended registration is or may be reinstated.

2. Prescribing categories or sub-categories of registrants, classifying registrants into categories or sub-categories and prescribing the conditions of registration or other requirements for registrants or any category or sub-category, including,

i. standards of practice and business conduct of registrants in dealing with their customers and clients and prospective customers and clients,

ii. requirements that are advisable for the prevention or regulation of conflicts of interest, and

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 2 of subsection 65 (1) of the Act is amended by striking out “and” at the end of subparagraph ii and by adding the following subparagraph: (See: 2019, c. 7, Sched. 25, s. 17)

ii.i requirements that individuals registered under this Act use specified titles, and

iii. requirements in respect of membership in a self-regulatory organization.

3. Extending any requirements prescribed under paragraph 2 to unregistered directors, partners, salespersons and officers of registrants.

4. Prescribing requirements in respect of the residence in Ontario or Canada of registrants.

5. Prescribing requirements in respect of notification by a registrant or other person or company in respect of a proposed change in beneficial ownership of, or control or direction over, securities of the registrant and authorizing the Commission to make an order that a proposed change may not be effected before a decision by the Commission as to whether it will exercise its powers under paragraph 1 of subsection 60 (1) as a result of the proposed change.

6. Prescribing requirements for persons and companies in respect of calling at or telephoning to residences for the purpose of trading in any contract.

7. Prescribing requirements in respect of the disclosure or furnishing of information to the public or the Commission by persons and companies registered under this Act, by their directors, partners or officers or by persons or companies that beneficially own, directly or indirectly, or exercise direct or indirect control or direction over at least 10 per cent of the voting securities of persons and companies registered under this Act or providing for exemptions from or varying the requirements under this Act in respect of the disclosure or furnishing of information to the public or the Commission by any of them.

8. Providing for exemptions from the registration requirements under this Act or for the removal of exemptions from those requirements.

9. Providing for exemptions from requirements applicable to dealers or advisers, or for the removal of exemptions from those requirements.

10. Providing for exemptions from or varying the requirements set out in Part XII.

11. Prescribing requirements in respect of the books, records and other documents required by Ontario commodity futures law to be kept by market participants, including the form in which and the period for which the books, records and other documents are to be kept.

12. Regulating recognized commodity futures exchanges, recognized self-regulatory organizations and recognized clearing houses, including prescribing requirements in respect of the review or approval by the Commission of any by-law, rule, regulation, policy, procedure, interpretation or practice.

13. Prescribing requirements in respect of market participants, including requirements in respect of membership in a self-regulatory organization and participation by registered dealers and registered advisers in a compensation fund.

14. Providing for exemptions from the requirement that a contract be traded on a commodity futures exchange that has been registered or recognized by the Commission under this Act or the removal of exemptions from those requirements.

15. Providing exemptions from the requirement that a commodity futures contract provide for physical delivery of the underlying interest or be traded on a commodity futures exchange.

16. Prescribing requirements in respect of the acceptance of the form of contracts, including designating any goods, article, service, right, interest, security, financial instrument, currency, interest rate, foreign exchange rate, economic indicator, index, basket, agreement or other benchmark of any kind, and the relationship between any of the foregoing, as a commodity.

17. Regulating the trading of contracts, including requiring reporting of trades and quotations.

18. Regulating trading or advising in contracts to prevent trading or advising that is fraudulent, manipulative, deceptive or unfairly detrimental to investors.

19. Designating activities, including the use of documents or advertising, in which market participants are permitted to engage or are prohibited from engaging in connection with the trading of contracts.

20. Prescribing which trading is trading outside Ontario.

21. Prescribing requirements relating to the qualification of a registrant to act as an adviser to a mutual fund, non-redeemable investment fund, commodity pool or managed futures account.

22. Prescribing requirements in respect of financial accounting, reporting and auditing for purposes of this Act, the regulations and the rules, including,

i. defining accounting principles and auditing standards acceptable to the Commission,

ii. financial reporting requirements for the preparation and dissemination of future-oriented financial information and pro forma financial statements,

iii. standards of independence and other qualifications for auditors,

iv. requirements respecting a change in auditors by a registered dealer or registered adviser, and

v. requirements respecting a change in the financial year of a market participant.

23. Requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by this Act, the regulations or the rules and all documents determined by the regulations or the rules to be ancillary to any such documents, including,

i. applications for registration and other purposes,

ii. risk disclosure statements, and

iii. interim financial reports and financial statements.

24. Varying the form and content of any of the documents referred to in paragraph 23, including substituting a form of document and its contents for any form of document and its contents prescribed by this Act.

25. Prescribing the fees payable to the Commission, including those for filing, for applications for registration or exemptions, for trades in contracts, in respect of audits made by the Commission and in connection with the administration of Ontario commodity futures law.

26. Respecting the designation or recognition of any person, company, market or jurisdiction if advisable for purposes of any provision of Ontario commodity futures law, including,

i. registering or recognizing commodity futures exchanges, self-regulatory organizations and clearing houses,

ii. exempting commodity futures exchanges from the need to be registered or recognized, and

iii. designating a person or company for the purpose of the definition of market participant.

27. Respecting the practice and procedure for the segregation of customers’ money, securities, property, proceeds and funds, including the form and content of any agreement respecting assets in segregation.

28. Respecting the conduct of the Commission and its employees in relation to duties and responsibilities and discretionary powers under this Act, including,

i. the conduct of investigations and examinations carried out under Part IV, and

ii. the conduct of hearings.

29. Varying the application of this Act to permit or require the use of an electronic or computer-based system for the filing, delivery or deposit of,

i. documents or information required under or governed by Ontario commodity futures law, and

ii. documents determined by the regulations or rules to be ancillary to documents required under or governed by Ontario commodity futures law.

30. Establishing requirements for and procedures in respect of the use of an electronic or computer-based system for the filing, delivery or deposit of documents or information.

31. Prescribing the circumstances in which persons or companies shall be deemed to have signed or certified documents on an electronic or computer-based system for any purpose of this Act.

32. Varying this Act to permit or require methods of filing or delivery, to or by the Commission, market participants or others of documents, information, notices, books, records, things, reports, orders, authorizations or other communications required under or governed by Ontario commodity futures law.

33. Respecting any other matter authorized by or required to implement any provision of this Act.

34. Prescribing a category or categories of designated benchmarks for the purposes of subsection 21.5 (7).

35. Prescribing classes of service providers or security holders for the purposes of subsection 21.7 (3).

36. Prescribing requirements relating to,

i. the designation of a benchmark or benchmark administrator under section 21.5,

ii. the making of orders under section 21.6,

iii. the disclosure or furnishing of information to the Commission, the public or any person or company by a benchmark administrator, a benchmark contributor or a benchmark user, including requirements for disclosure statements by a benchmark administrator in relation to a benchmark,

iv. the quality, integrity and sufficiency of the data and the methodology used by a benchmark administrator to determine a benchmark, including requirements for a benchmark administrator to monitor benchmark contributors and data provided by benchmark contributors,

v. the establishment, publication and enforcement by a benchmark administrator of codes of conduct applicable to benchmark administrators or benchmark contributors and their respective directors, officers and employees, and any of their service providers or security holders that are in a class prescribed under paragraph 35, and the minimum requirements to be included in such a code of conduct,

vi. contractual arrangements related to a benchmark to be entered into by a benchmark administrator or a benchmark contributor and the minimum requirements to be included in the contractual arrangements,

vii. the use by a benchmark administrator and a benchmark contributor of service providers,

viii. prohibitions against and procedures regarding conflicts of interest involving a benchmark and benchmark administrators, benchmark contributors and their respective directors, officers and employees, and any of their service providers or security holders that are in a class prescribed under paragraph 35, including,

A. procedures to be followed to avoid conflicts of interest,

B. procedures to be followed if conflicts of interest arise,

C. requirements for separation of roles, functions and activities, and

D. restrictions on ownership of a benchmark or benchmark administrator,

ix. prohibitions against the use of a benchmark that is not a designated benchmark by a benchmark user,

x. disclosure and other requirements respecting the use of a benchmark by a benchmark administrator, benchmark contributor or benchmark user,

xi. requiring information in relation to a benchmark to be provided for use by the benchmark administrator,

xii. the maintenance of books and records necessary for the conduct of a benchmark administrator’s business and the establishment and maintenance of a benchmark,

xiii. the maintenance of books and records by a benchmark contributor relating to a benchmark,

xiv. the appointment by benchmark administrators and benchmark contributors of one or more compliance officers and any minimum standards that must be met or qualifications a compliance officer must have,

xv. the prohibition or restriction of any matter or conduct involving a benchmark by benchmark administrators, benchmark contributors and their respective directors, officers and employees, and any of their service providers or security holders that are in a class prescribed under paragraph 35,

xvi. the design, determination and dissemination of a benchmark,

xvii. plans of a benchmark user where a benchmark changes or ceases to be provided and how these plans will be reflected in the contractual arrangements of the benchmark user,

xviii. the governance, compliance, accountability, oversight, audit, internal controls, policies and procedures of a benchmark administrator or benchmark contributor in respect of a benchmark,

xix. the governance, compliance, accountability, oversight, audit, internal controls, policies and procedures of a benchmark administrator, benchmark contributor or benchmark user in respect of the use of a benchmark.

37. Regulating submissions of information for the purposes of determining a benchmark.

38. Requiring benchmark administrators or benchmark contributors to,

i. establish plans in the event that a benchmark changes or ceases to be provided or is subject to data failures or business continuity issues, and

ii. reflect the plans referred to in subparagraph i in the contractual arrangements of the benchmark administrator or benchmark contributor relating to the benchmark.

39. Governing or restricting the payment of fees or other compensation to a benchmark administrator or benchmark contributor.

40. Prescribing persons and bodies for the purposes of the definition of “authority responsible for the regulation of commodities and contracts of another province or territory in Canada” in subsection 60 (9). 1999, c. 9, s. 47; 2009, c. 18, Sched. 6, s. 2; 2009, c. 33, Sched. 16, s. 2 (4); 2009, c. 34, Sched. C, s. 1; 2010, c. 1, Sched. 3, s. 1; 2018, c. 17, Sched. 7, s. 4; 2023, c. 21, Sched. 1, s. 9.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 65 (1) of the Act is amended by adding the following paragraphs: (See: 2023, c. 21, Sched. 1, s. 10 (1))

40. Respecting the administration and distribution of disgorged amounts under section 60.2.1.

41. Respecting the use of money described in subclause 19 (2) (b) (iii) or clause 19 (2) (c) of the Securities Commission Act, 2021 to pay administrative costs in relation to the distribution of disgorged amounts under section 60.2.1 of this Act.

Limitation, Tribunal’s adjudicative functions

(1.1)  The Commission shall not make rules respecting matters relating to the Tribunal’s adjudicative functions. 2021, c. 8, Sched. 9, s. 39 (39).

Regulations

(2)  The Lieutenant Governor in Council may make regulations in respect of,

(a) any matter in respect of which the Commission may make rules, with necessary modifications;

(a.1) the administration and distribution of amounts disgorged under paragraph 10 of subsection 60 (1);

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 65 (2) (a.1) of the Act is repealed. (See: 2023, c. 21, Sched. 1, s. 10 (2))

(b) any matter advisable for carrying out the purposes of this Act. 1999, c. 9, s. 47; 2002, c. 22, s. 14.

Revoking regulations

(3)  Subject to the approval of the Minister, the Commission, concurrently with making a rule, may make a regulation that amends or revokes any provision of a regulation made by the Lieutenant Governor in Council under this Act or by the Commission under this subsection that, in the opinion of the Commission, is necessary or advisable to effectively implement the rule. 1999, c. 9, s. 47.

Effective date

(4)  A regulation made under subsection (3) is not effective before the rule referred to in that subsection comes in force. 1999, c. 9, s. 47.

Retroactive

(5)  Subject to subsection (4), a regulation made under subsection (3), if it so provides, is effective with reference to a period before it was filed. 1999, c. 9, s. 47.

Incorporation by reference

(6)  A regulation or rule authorized by this section may incorporate by reference, in whole or in part, any standard, procedure or guideline and may require compliance with any standard, procedure or guideline adopted. 1999, c. 9, s. 47.

Classes

(7)  Regulations or rules in respect of registrants, other persons or companies, contracts, trades or other matters or things may be made in respect of any class or category of registrants, other persons or companies, contracts, trades or other matters or things. 1999, c. 9, s. 47.

Scope

(8)  A regulation or rule may be general or particular in its application, may be limited as to time or place, or both, and may exclude any place from the application of the regulation or rule. 1999, c. 9, s. 47.

Exemptions

(9)  A regulation or rule may authorize the Commission or the Director to grant an exemption to it. 1999, c. 9, s. 47.

Same

(10)  An exemption or a removal of an exemption,

(a) may be granted or made, in whole or in part; and

(b) may be granted or made subject to conditions or restrictions. 1999, c. 9, s. 47.

Existing regulations become rules

(11)  The Lieutenant Governor in Council may, by order, determine at any time that any regulation, or part thereof, in force at that time shall thereafter be a rule. 1999, c. 9, s. 47.

*Legislation Act, 2006*, Part III

(12)  Part III (Regulations) of the Legislation Act, 2006 does not apply to the rules. 1999, c. 9, s. 47; 2006, c. 21, Sched. F, s. 136 (1).

Same

(13)  A regulation made under subsection (3) is subject to Part III (Regulations) of the Legislation Act, 2006. 1999, c. 9, s. 47; 2006, c. 21, Sched. F, s. 136 (1).

L.G. in C. prevails

(14)  If there is a conflict or an inconsistency between a regulation made by the Lieutenant Governor in Council under this Act and a rule, the regulation prevails, but in all other respects a rule has the same force and effect as a regulation. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

[2002, c. 22, s. 14](http://www.ontario.ca/laws/statute/S02022" \l "s14) - 7/04/2003

[2006, c. 21, Sched. F, s. 136 (1)](http://www.ontario.ca/laws/statute/S06021" \l "schedfs136s1) - 25/07/2007

[2009, c. 18, Sched. 6, s. 2](http://www.ontario.ca/laws/statute/S09018" \l "sched6s2) - 5/06/2009; [2009, c. 33, Sched. 16, s. 2 (4)](http://www.ontario.ca/laws/statute/S09033" \l "sched16s2s4) - 15/12/2009; [2009, c. 34, Sched. C, s. 1](http://www.ontario.ca/laws/statute/S09034" \l "schedcs1) - 15/12/2009

[2010, c. 1, Sched. 3, s. 1](http://www.ontario.ca/laws/statute/S10001" \l "sched3s1) - 1/01/2011

[2018, c. 17, Sched. 7, s. 4](http://www.ontario.ca/laws/statute/S18017" \l "sched7s4) - 06/12/2018

[2019, c. 7, Sched. 25, s. 17](http://www.ontario.ca/laws/statute/S19007" \l "sched25s17) - not in force

[2021, c. 8, Sched. 9, s. 39 (39)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s39) - 29/04/2022

[2023, c. 21, Sched. 1, s. 9](http://www.ontario.ca/laws/statute/S23021" \l "sched1s9) - 04/12/2023; [2023, c. 21, Sched. 1, s. 10 (1, 2)](http://www.ontario.ca/laws/statute/S23021" \l "sched1s10s1) - not in force

Deemed rules

**66** (1)  Every order and ruling of the Commission that is listed in the Schedule shall be deemed to be a rule validly made under this Act and to have come into force on the day this section comes into force. 1999, c. 9, s. 47.

Amended orders or rulings

(2)  For the purposes of subsection (1), a reference to an order, ruling or policy, whether or not it is referred to in the Schedule, as amended, is a reference to the order, ruling or policy as it exists on the day this section comes into force. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

Publication

**67** (1)  The Commission shall publish in its Bulletin notice of every rule that it proposes to make under section 65. 1999, c. 9, s. 47.

Notice

(2)  The notice must include the following:

1. The proposed rule.

2. A statement of the substance and purpose of the proposed rule.

3. A summary of the proposed rule.

4. A reference to the authority under which the rule is proposed.

5. A discussion of all alternatives to the proposed rule that were considered by the Commission and the reasons for not proposing the adoption of the alternatives considered.

6. A reference to any significant unpublished study, report or other written materials on which the Commission relies in proposing the rule.

7. A qualitative and quantitative analysis of the anticipated costs and benefits of the proposed rule.

8. A reference to every regulation or provision in a regulation to be amended or revoked under section 65. 1999, c. 9, s. 47; 2019, c. 7, Sched. 10, s. 2.

Exception

(3)  The Commission does not have to make reference to written material that, in the opinion of the Commission, should be held in confidence because it discloses intimate financial, personal or other information and the desirability of avoiding disclosure of the substance of it or its existence in the interests of any person or company affected outweighs the desirability of making it or knowledge of its existence available to the public. 1999, c. 9, s. 47.

Representations

(4)  Upon publication of a notice under subsection (1), the Commission shall invite, and shall give a reasonable opportunity to, interested persons and companies to make written representations with respect to the proposed rule within a period of at least 60 days after the publication. 1999, c. 9, s. 47; 2023, c. 20, Sched. 4, s. 1.

Exceptions to notice requirement

(5)  Publication of a notice is not required if,

(a) all persons and companies who would be subject to the proposed rule are named, the information set out in subsection (2) is sent to each of them and they and any other person or company whose interests are likely to be substantially affected by the proposed rule are given an opportunity to make written representations with respect to it;

(b) the proposed rule grants an exemption or removes a restriction and is not likely to have a substantial effect on the interests of persons or companies other than those who benefit under it;

(b.1) the rule is a rule made under clause 75 (3) (b) extending a class order exemption;

(c) what is proposed is only an amendment that does not materially change an existing rule;

(d) the Commission,

(i) believes that there is an urgent need for the proposed rule and that, without it, there is a substantial risk of material harm to investors or to the integrity of the capital markets, and

(ii) has the approval of the Minister to make the rule without publication of notice; or

(e) the proposed rule remakes an order, ruling or policy that was deemed to be a rule by the operation of section 66 without materially changing the effect or intent of the rule. 1999, c. 9, s. 47; 2019, c. 15, Sched. 7, s. 2.

Publication

(6)  When a rule to which clause (5) (d) applies comes into force, the Commission shall publish in its Bulletin a statement setting out the substance and purpose of the rule and the nature of the urgency and the risk. 1999, c. 9, s. 47.

Changes to proposal

(7)  If, following publication of the notice and consideration of the submissions, the Commission proposes material changes to the proposed rule, the Commission shall publish in its Bulletin notice of the proposed changes. 1999, c. 9, s. 47.

Notice

(8)  The notice must include the following:

1. The proposed rule with the changes incorporated.

2. A concise statement of the purpose of the changes.

3. The reasons for the changes. 1999, c. 9, s. 47.

Representations re changes

(9)  Upon publication of a notice of changes, the Commission shall invite, and shall give a reasonable opportunity to, interested persons and companies to make written representations with respect to the changes within such period as the Commission considers appropriate. 1999, c. 9, s. 47.

Making rule

(10)  In cases where a notice and comment process is required, the Commission may make the rule only at the end of the notice and comment process and after considering all representations made as a result of that process. 1999, c. 9, s. 47.

Inspection of material

(11)  Section 63 applies to all written representations made under this section as if they were material required to be filed. 1999, c. 9, s. 47.

Definition

(12)  In this section and in section 68,

“rule” includes an amendment to and a revocation of a rule. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

[2019, c. 7, Sched. 10, s. 2](http://www.ontario.ca/laws/statute/S19007" \l "sched10s2) - 29/05/2019; [2019, c. 15, Sched. 7, s. 2](http://www.ontario.ca/laws/statute/S19015" \l "sched7s2) - 10/12/2019

[2023, c. 20, Sched. 4, s. 1](http://www.ontario.ca/laws/statute/S23020" \l "sched4s1) - 04/12/2023

Delivery of rules to Minister

**68** (1)  The Commission must deliver to the Minister a copy of every rule made by it together with the following:

1. A copy of the notices published under section 67, unless publication of notice was not required and copies of all documents referred to in the notices.

2. A summary of the representations made and other documents submitted in respect of the rule as proposed.

3. All other material information that was considered by the Commission in connection with the making of the rule. 1999, c. 9, s. 47.

Publication

(2)  The Commission shall publish in its Bulletin every rule made by it as soon after the rule is made as practicable together with the following:

1. The date on which a rule and the material required under subsection (1) were delivered to the Minister.

2. The date the rule is to come into force if an action is not taken by the Minister under subsection (3).

3. A statement of the substance and purpose of the rule.

4. A summary of the written comments received during the comment periods if notice and comment were required.

5. A statement of the Commission setting out its response to the significant issues and concerns brought to the attention of the Commission during the comment periods. 1999, c. 9, s. 47.

Action by Minister

(3)  Within 60 days after a rule is delivered to the Minister, the Minister may,

(a) approve the rule,

(b) reject the rule; or

(c) return it to the Commission for further consideration. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

When rules effective

**69** (1)  A rule that is approved by the Minister comes into force 15 days after it is approved unless there is a later day specified in the rule in which case it comes into force on that later day. 1999, c. 9, s. 47.

Same

(2)  If the Minister does not approve a rule, reject it or return it to the Commission for further consideration and a coming into force day,

(a) that is at least 75 days after the rule is delivered to the Minister is specified in the rule, the rule comes into force on the specified day;

(b) is not specified in the rule, the rule comes into force on the 75th day after the rule is delivered to the Minister; or

(c) that is within 75 days after the rule is delivered to the Minister is specified in the rule, the rule comes into force on the 75th day after the rule is delivered to the Minister. 1999, c. 9, s. 47.

Same

(3)  A rule that is returned to the Commission for further consideration cannot come into force until it is returned by the Commission to the Minister at which time this section applies as if the rule were delivered for the first time. 1999, c. 9, s. 47.

Same

(4)  A rule that is rejected by the Minister does not come into force. 1999, c. 9, s. 47.

Same

(5)  A rule to which clause 67 (5) (d) (urgency provision) applies that is approved by the Minister comes into force on the day it is published in the Commission’s Bulletin. 1999, c. 9, s. 47.

Revocation by operation of law

(6)  Every rule to which clause 67 (5) (d) applies is revoked on the 275th day after it comes into force. 1999, c. 9, s. 47.

Publication

(7)  The Commission shall publish every rule that comes into force in The Ontario Gazette and in its Bulletin. 1999, c. 9, s. 47.

Deemed notice

(8)  Every person or company affected by a rule shall be deemed to have notice of it when it is published in the Commission’s Bulletin. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

Returned for consideration

**70** (1)  If the Minister returns a rule to the Commission for further consideration, the Minister may specify what is to be considered, the conditions that apply and the process to be followed. 1999, c. 9, s. 47.

Same

(2)  Subject to any instruction that the Commission receives under subsection (1), the Commission shall consider any rule returned to it in the manner and following the process that it feels is appropriate. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

Publication

**71** The Commission shall publish in its Bulletin notice of,

(a) any action taken by the Minister under subsection 68 (3) in respect of every rule that the Commission has delivered to the Minister; and

(b) any matters specified by the Minister under subsection 70 (1) to be considered. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

Studies

**72** (1)  The Minister may in writing require the Commission,

(a) to study and make recommendations in respect of any matter of a general nature under or affecting Ontario commodity futures law; and

(b) to consider making a rule in respect of a matter specified by the Minister. 1999, c. 9, s. 47.

Publication

(2)  The Commission shall publish in its Bulletin notice of every requirement from the Minister made under subsection (1). 1999, c. 9, s. 47.

Notice

(3)  The notice must include the following:

1. A statement of the substance of the requirement.

2. A reference to every unpublished study, report or other written materials provided to the Commission by the Minister other than materials that the Minister has asked the Commission to treat as confidential. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

Policies

Definition

**73** (1)  In this Act,

“policy” means a written statement of the Commission of,

(a) principles, standards, criteria or factors that relate to a decision or exercise of a discretion by the Commission or the Director under this Act, the regulations or the rules,

(b) the manner in which a provision of this Act, the regulations or the rules is interpreted or applied by the Commission or the Director,

(c) the practices generally followed by the Commission or the Director in the performance of duties and responsibilities under this Act or regulations, and

(d) something that is not legislative in nature. 1999, c. 9, s. 47.

Publication

(2)  The Commission shall publish in its Bulletin notice of the proposed adoption of a policy. 1999, c. 9, s. 47.

Notice

(3)  The notice must include the following:

1. The proposed policy.

2. A statement of the purpose of the proposed policy.

3. A summary of the proposed policy.

4. A reference to any significant unpublished study, report, decision or other written materials on which the Commission relies in proposing the policy.

5. A reference to any provision of this Act, a regulation or a rule to which the proposed policy relates. 1999, c. 9, s. 47.

Exception

(4)  The Commission does not have to make reference to written material that, in the opinion of the Commission, should be held in confidence because it discloses intimate financial, personal or other information and the desirability of avoiding disclosure of the substance of it or its existence in the interests of any person or company affected outweighs the desirability of making it or knowledge of its existence available to the public. 1999, c. 9, s. 47.

Representations

(5)  Upon publication of the notice, the Commission shall invite, and shall give a reasonable opportunity to, interested persons and companies to make written representations with respect to the proposed policy within a period of at least 60 days after the publication. 1999, c. 9, s. 47.

Exceptions to notice requirement

(6)  Publication of a notice is not required if the proposed policy would make no material substantive change to an existing policy. 1999, c. 9, s. 47.

Changes to proposal

(7)  If, following publication of the notice, the Commission proposes material changes to the proposed policy, the Commission shall publish in its Bulletin,

(a) the proposed policy with the changes incorporated;

(b) a concise statement of the purpose for the changes; and

(c) the reasons for the changes. 1999, c. 9, s. 47.

Representations re changes

(8)  Upon publication of a notice of change, the Commission shall invite, and shall give a reasonable opportunity to, interested persons and companies to make written representations with respect to the change within such period as the Commission considers appropriate. 1999, c. 9, s. 47.

Publication in Bulletin

(9)  The Commission shall publish in its Bulletin every policy adopted by it as soon after the policy is adopted as practicable together with the following:

1. The date the policy comes into effect.

2. A statement of the substance and purpose of the policy.

3. A summary of the written comments received during the period for comments.

4. A statement of the Commission setting out its response to the significant issues and concerns brought to the attention of the Commission during the comment periods and the reasons for any changes made to the proposed policy following its publication. 1999, c. 9, s. 47.

Inspection of material

(10)  Section 62 applies to all written representations made under this section as if they were material required to be filed. 1999, c. 9, s. 47.

Restriction

(11)  The Commission shall not adopt a policy that, by reason of its prohibitive or mandatory character, is of a legislative nature. 1999, c. 9, s. 47.

Definition

(12)  In this section,

“policy” includes a change to and a rescission of a policy. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

**74** Repealed: 2021, c. 8, Sched. 9, s. 39 (40).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (40)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s40) - 29/04/2022

General orders

**75** (1)  The Commission shall not make any orders or rulings of general application. 2019, c. 15, Sched. 7, s. 3.

Class order exemptions

(2)  Despite subsection (1), if the Commission considers that it would not be prejudicial to the public interest to do so, the Commission may, on application by an interested person or company or on its own initiative, make an order exempting a class of persons or companies, contracts, trades or intended trades from any requirement of Ontario commodity futures law on such terms or conditions as may be set out in the order. 2019, c. 15, Sched. 7, s. 3.

Duration of class order exemption

(3)  If an order is made under subsection (2),

(a) the order has no effect as of 18 months after the day on which it comes into force unless extended under clause (b); and

(b) the Commission may make a rule in accordance with sections 68 to 71 extending the order for a further period of up to 18 months. 2019, c. 15, Sched. 7, s. 3.

Public notice

(4)  On or before the day on which an order described in subsection (2) is effective, the Commission shall publish a notice in its Bulletin that includes a description of the order, the reasons for it and the day on which it ceases to have effect. 2019, c. 15, Sched. 7, s. 3.

Legislation Act, 2006, Part III

(5)  Part III (Regulations) of the Legislation Act, 2006 does not apply to an order made under subsection (2). 2019, c. 15, Sched. 7, s. 3.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

[2019, c. 15, Sched. 7, s. 3](http://www.ontario.ca/laws/statute/S19015" \l "sched7s3) - 10/12/2019

**76** Repealed: 2021, c. 40, Sched. 19, s. 8.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

[2004, c. 31, Sched. 6, s. 3](http://www.ontario.ca/laws/statute/S04031" \l "sched6s3) - 16/12/2004

[2021, c. 40, Sched. 19, s. 8](http://www.ontario.ca/laws/statute/S21040" \l "sched19s8) - 29/04/2022

**77** Repealed: 2021, c. 8, Sched. 9, s. 39 (40).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (40)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s40) - 29/04/2022

Electronic communication

**77.1**The Commission shall be deemed to have complied with a requirement under Ontario commodity futures law to publish or otherwise make available a notice, rule or other information if the Commission provides the notice, rule or information in electronic form through an electronic medium or posts it on its website. 2002, c. 18, Sched. H, s. 2.

**Section Amendments with date in force (d/m/y)**

[2002, c. 18, Sched. H, s. 2](http://www.ontario.ca/laws/statute/S02018" \l "schedhs2) - 26/11/2002

Revocation or variation of decision

**78** (1)  The Commission may, on the application of the Chief Executive Officer of the Commission or a person or company affected by the decision, make an order revoking or varying a decision of the Commission if, in the Commission’s opinion, the order would not be prejudicial to the public interest. 1999, c. 9, s. 47; 2021, c. 8, Sched. 9, s. 39 (41).

Terms and conditions

(2)  The order may be made on such terms and conditions as the Commission may impose. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (41)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s41) - 29/04/2022

Revocation or variation of decision by Tribunal

**78.1**(1)  The Tribunal may make an order revoking or varying a decision of the Tribunal, on the application of the Chief Executive Officer of the Commission or a person or company affected by the decision, if in the Tribunal’s opinion the order would not be prejudicial to the public interest. 2021, c. 8, Sched. 9, s. 39 (42).

Terms and conditions

(2)  The order may be made on such terms and conditions as the Tribunal may impose. 2021, c. 8, Sched. 9, s. 39 (42).

**Section Amendments with date in force (d/m/y)**

[2021, c. 8, Sched. 9, s. 39 (42)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s42) - 29/04/2022

No privilege

**79** (1)  Despite subsection 33 (4) of the Evidence Act, the Commission may, by order, compel a bank or officer of a bank, in an investigation, financial examination or hearing under Ontario commodity futures law to which the bank is not a party, to produce any book or record the contents of which can be proved under section 33 of the Evidence Act or to appear as a witness to prove the matters, transactions and accounts contained in the book or record. 1999, c. 9, s. 47.

Definitions

(2)  In subsection (1),

“bank” and “officer of a bank” have the same meanings as in subsection 33 (4) of the Evidence Act. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

Exemption

**80** Except where exemption applications are otherwise provided for in Ontario commodity futures law, the Commission may, on the application of an interested person or company and if, in the Commission’s opinion, it would not be prejudicial to the public interest, make an order on such terms and conditions as it may impose exempting the person or company from any requirement of Ontario commodity futures law. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

Costs

**81** Nothing shall preclude a court from ordering costs payable to the Commission and in the event that costs are awarded to the Commission, a counsel fee may be awarded despite the fact that the Commission was represented by Commission staff. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

Decision under more than one provision

**82** Nothing in this Act shall be construed as limiting the Commission’s or the Tribunal’s ability to make a decision under more than one provision of Ontario commodity futures law in respect of the same conduct or matter. 1999, c. 9, s. 47; 2021, c. 8, Sched. 9, s. 39 (43).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (43)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s43) - 29/04/2022

Enforcement of Commission decision

**83** (1)  On filing with the Superior Court of Justice, a decision made by the Commission, by the Tribunal, by the Chief Executive Officer of the Commission or by another Director in accordance with a delegation under subsection 2.3 (1) shall be deemed to be an order of the Superior Court of Justice and is enforceable as an order of that court. 1999, c. 9, s. 47; 2021, c. 8, Sched. 9, s. 39 (44).

Filing decision

(2)  A decision of a Director may not be filed with the court under subsection (1) until the time permitted for an application to review the Director’s decision pursuant to subsection 4 (2) has expired or, if the decision has been appealed, the Tribunal has confirmed it. 1999, c. 9, s. 47; 2021, c. 8, Sched. 9, s. 39 (45).

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (44, 45)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s44) - 29/04/2022

Application for letters of request

**84** (1)  The Commission may apply to the Superior Court of Justice for an order,

(a) appointing a person to take the evidence of a witness outside of Ontario for use in a proceeding before the Tribunal; and

(b) providing for the issuance of a letter of request directed to the judicial authorities of the jurisdiction in which the witness is to be found, requesting the issuance of such process as is necessary to compel the person to attend before the person appointed under clause (a) to give testimony on oath or otherwise and to produce documents and things relevant to the subject-matter of the proceeding. 1999, c. 9, s. 47; 2021, c. 8, Sched. 9, s. 39 (46).

Practice and procedure

(2)  The practice and procedure in connection with an appointment under this section, the taking of evidence and the certifying and return of the appointment shall, as far as possible, be the same as those that govern similar matters in civil proceedings in the Superior Court of Justice. 1999, c. 9, s. 47.

Admissibility of evidence

(3)  The making of an order under subsection (1) does not determine whether evidence obtained pursuant to the order is admissible in the proceeding before the Tribunal. 1999, c. 9, s. 47; 2021, c. 8, Sched. 9, s. 39 (47).

Reciprocal assistance

(4)  If it is made to appear to the Superior Court of Justice that a court or tribunal of competent jurisdiction outside of Ontario has, on behalf of a securities commission, a commodity futures commission or other body empowered by statute to administer or regulate trading in contracts, duly authorized, by commission, order or other process, the obtaining of the testimony of a witness outside the jurisdiction of the securities commission, commodity futures commission or other body, the Superior Court of Justice may order the examination of the witness before the person appointed in the manner and form directed by the commission, order or other process, and may, by the same or by subsequent order, command the attendance of the witness for the purpose of being examined, or the production of a writing or other document or thing mentioned in the order, and may give all such directions as to the time and place of the examination and all other matters connected with the examination as seem proper. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

[2021, c. 8, Sched. 9, s. 39 (46, 47)](http://www.ontario.ca/laws/statute/S21008" \l "sched9s39s46) - 29/04/2022

Exchange of information

**85** Despite the Freedom of Information and Protection of Privacy Act, the Commission may provide information to and receive information from other securities or financial regulatory authorities, stock exchanges, self-regulatory bodies or organizations, law enforcement agencies and other governmental or regulatory authorities, both in Canada and elsewhere, and any information so received by the Commission shall be exempt from disclosure under that Act if the Commission determines that such information should be maintained in confidence. 1999, c. 9, s. 47.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 47 - 14/12/1999

Schedule  
Definition of “rules”

|  |  |  |
| --- | --- | --- |
| Item | Orders and Rulings | Date Issued |
| 1. | In The Matter Of The Members Of The Toronto Stock Exchange And Of The Investment Dealers Association of Canada (Order) (exempts members of the TSE and IDA from the need to segregate) | November 29, 1979 |
| 2. | In The Matter Of Trading In Commodity Futures Contracts And Commodity Futures Options Entered Into On Commodity Futures Exchanges Situate Outside Canada Other Than Commodity Futures Exchanges In The United States of America (Order) (exempts trades by registered futures commission merchants in contracts on offshore exchanges from requirements of s. 33 of Act) | January 3, 1980 |
| 3. | In The Matter Of Trading Commodity Futures Contracts Entered Into On The Montreal Stock Exchange (Order) (exempts trades by registered futures merchants in contracts on ME from requirements of s. 33 of Act) | August 25, 1980 |
| 4. | In The Matter Of The Toronto Futures Exchange (Order) (exempts registrants from the need to provide customers with the terms and conditions of contracts) | January 10, 1984 |
| 5. | In The Matter Of The Toronto Futures Exchange (Order) (exempts TFE members from the need to segregate) | January 10, 1984 |
| 6. | In The Matter Of The Toronto Futures Exchange (Ruling) (exempts trades made on the floor of the TFE by floor traders from s. 22) | January 10, 1984 |
| 7. | In The Matter Of Trading In Commodity Futures Contracts And Commodity Futures Options Entered Into On Commodity Futures Exchanges Situate Outside Canada Other Than Commodity Futures Exchanges In The United States of America (Order) (exempts trades by registered futures commission merchants in contracts subject to rules of London Metal Exchange from s. 33 of Act) | January 26, 1984 |
| 8. | In The Matter Of Trading In Commodity Futures Contracts And Commodity Futures Options Entered Into On Commodity Futures Exchanges In The United States Of America (Order) (exempts trades by registered dealers in contracts on contract markets designated by CFTC) | October 26, 1984 |
| 9. | In The Matter Of The Toronto Stock Exchange (Ruling) (exempts traders on floor of TSE from s. 22 of Act) | April 9, 1985 |
| 10. | In The Matter Of The Toronto Stock Exchange (Ruling) (exempts trades in Government of Canada Bond Options from s. 22 of the CFA if made by Securities Act registrants) | September 16, 1985 |
| 11. | In The Matter Of The Toronto Stock Exchange (Order and Ruling) (exempts trades in contracts made on the floor of the TFE by options attorneys and competitive options traders from s. 22) | May 15, 1987 |
| 12. | In The Matter Of The Toronto Futures Exchange (Order and Ruling) | May 15, 1987 |
| 13. | In The Matter Of Trading In Commodity Futures Contracts And Commodity Futures Options Entered Into On The Montreal Exchange (Order) | August 22, 1989 |
| 14. | In The Matter Of Certain Members Of The Toronto Futures Exchange (Order) (limits the exemption from the need to segregate) | January 8, 1990 |
| 15. | In The Matter Of The Toronto Stock Exchange (Ruling) (exempts options attorneys and competitive options traders from s. 22 if they trade TSE 300 contracts) | January 15, 1994 |

2017, c. 34, Sched. 7, s. 6.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 48 - 14/12/1999

[2017, c. 34, Sched. 7, s. 6](http://www.ontario.ca/laws/statute/S17034" \l "sched7s6) - 14/12/2017

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