



THE MANITOBA
SECURITIES
COMMISSION

THE COMMODITY FUTURES ACT)

Order No. 7493

Section 66(1))

October 22, 2019

RBC CAPITAL MARKETS, LLC

WHEREAS:

(A) RBC Capital Markets, LLC (the “Applicant”) has applied to The Manitoba Securities Commission (the “Commission”) for an order pursuant to subsection 66(1) of the *Commodity Futures Act* (Manitoba) (the “CFA”) granting relief from the requirement in section 24(1) of the CFA for the Applicant to be registered as a dealer in connection with trades (“Futures Trades”) in commodity futures contracts and options on commodity futures contracts (collectively, “Futures Contracts”) that trade on certain exchanges located outside Canada (“Exchange-Traded Futures”) with the residents of Manitoba that fall within the category of investors defined as “permitted clients” in section 1.1 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations (“NI 31-103”) (“Permitted Clients”) (the “CFA International Dealer Relief”).

(B) The Applicant has represented to the Commission that:

- (1) the Applicant is a corporation incorporated under the laws of the State of Minnesota, U.S.A. Its head office is located at Three World Financial Center, 200 Vesey Street, New York, NY 10281;
- (2) the Applicant is a subsidiary of RBC Capital Markets Holdings (USA) Inc., which is organized under the laws of Delaware and which is an indirect subsidiary of Royal Bank of Canada;
- (3) the Applicant is a futures brokerage company and provides execution and clearing services in the United States. The Applicant services a network of introducing broker offices, as well as financial, industrial and agricultural institutions;
- (4) the Applicant is registered as a broker-dealer with the U.S. Securities and Exchange Commission and a futures commission merchant with the U.S. Commodity Futures Trading Commission (“U.S. CFTC”) and is a member of the U.S. Financial Industry Regulatory Authority (“U.S. FINRA”) and the U.S. National Futures Association (“U.S. NFA”);
- (5) the Applicant is a member of the Chicago Mercantile Exchange, the Chicago Board of Trade, the New York Mercantile Exchange and other U.S. and non-Canadian exchanges;

- (6) the Applicant is not in default of securities or commodities legislation of Manitoba;
- (7) the Applicant currently relies on the registration exemption available in Section 8.18 of NI 31-103 (the International Dealer Exemption) for the purposes of trading in “securities” with “permitted clients” resident in all provinces and territories of Canada other than Nunavut;
- (8) under its registrations and memberships, the Applicant is authorized to handle customer orders and receive and hold customer margin deposits, and otherwise act as a futures broker, in the United States. Rules of the U.S. CFTC and the U.S. NFA require the Applicant to maintain adequate capital levels, make and keep specified types of records relating to customer accounts and transactions, and comply with other forms of customer protection rules. In order to protect customers in the event of insolvency or financial instability of the Applicant, the Applicant is required to ensure that customer securities and monies are separately accounted for and segregated from the securities and monies of the Applicant. The Applicant is also required to obtain acknowledgements from banks and brokers holding customer funds or securities that such funds or securities are to be separately held on behalf of such customers, with no right of set-off against the Applicant's obligations or debts;
- (9) the Applicant currently offers certain of its clients in Manitoba that are Permitted Clients the ability to trade in Exchange-Traded Futures through the Applicant pursuant to the Applicant having been previously granted exemptive relief identical to the Exemption Sought by Order dated October 22, 2014 (the Existing Relief). The Existing Relief expires on October 22, 2019 and the effect of the Exemption Sought is to extend the Existing Relief, on the same terms and conditions, for a further interim period of up to five years (as described below);
- (10) the Applicant will solicit business in Manitoba only from persons who qualify as Permitted Clients;
- (11) clients of the Applicant that are Permitted Clients will only be offered the ability to trade Exchange-Traded Futures trading on contracts that trade on exchanges based outside Canada (Recognized Exchanges);
- (12) the Exchange-Traded Futures to be traded by Permitted Clients will include, but will not be limited to, Futures Contracts for equity index, interest rate, energy, agricultural and other commodity products;

- (13) Permitted Clients will be able to execute trades in Exchange-Traded Futures through the Applicant by contacting the Applicant's exchange floor staff or global execution desk. Permitted Clients may also be able to self execute trades electronically in Exchange-Traded Futures via an independent service vendor and/or other electronic trading routing;
- (14) the Applicant may execute a client's order on the relevant Recognized Exchange in accordance with the rules and customary practices of the exchange, or engage another broker to assist in the execution of orders. The Applicant will remain responsible for the execution of each such trade; the Applicant may perform both execution and clearing functions for Futures Trades or may direct that a trade executed by it be cleared through a carrying broker if the Applicant is not a member of the Recognized Exchange on which the trade is executed. Alternatively, the client will be able to direct that trades executed by the Applicant be cleared through clearing brokers not affiliated with the Applicant in any way (each a Non-RBC Clearing Broker);
- (15) if the Applicant performs only the execution of a client's Futures Contract order and "gives-up" the transaction for clearance to a Non-RBC Clearing Broker, such clearing broker will also be required to comply with the rules of the exchanges of which it is a member and any relevant regulatory requirements, including requirements under the CFA as applicable. Each such Non-RBC Clearing Broker will represent to the Applicant in a give-up agreement that it will perform its obligations in accordance with applicable laws, governmental, regulatory, self-regulatory, exchange and clearing house rules and the customs and usages of the exchange or clearing house on which the relevant client's Futures Contract orders will be executed and cleared. The Applicant will not enter into a give-up agreement with any Non-RBC Clearing Broker located in the United States unless such clearing broker is registered with the U.S. CFTC and/or U.S. Securities and Exchange Commission, as applicable;
- (16) as is customary for all trading in Exchange-Traded Futures, a clearing corporation appointed by the exchange or clearing division of the exchange is substituted as a universal counterparty on all trades in Futures Contracts and client orders are submitted to the exchange in the name of the Non-RBC Clearing Broker or the Applicant or, on exchanges where the Applicant is not a member, in the name of another carrying broker. The client is responsible to the Applicant for payment of daily mark-to-market variation margin and/or proper margin to carry open positions and the Applicant, the carrying broker or the Non-RBC Clearing Broker is in turn responsible to the clearing corporation/division for payment;

- (17) clients that direct the Applicant to give up transactions in Exchange-Traded Futures for clearance and settlement by Non-RBC Clearing Brokers will execute the give-up agreements described above; clients will pay commissions for trades to the Applicant or the Non-RBC Clearing Broker or such commissions may be shared with the Non-RBC Clearing Broker;
- (18) as a futures commission merchant subject to regulatory oversight by the U.S. CFTC, the Applicant is required to ensure that customer positions and monies be separately accounted for and segregated from the positions and monies of the Applicant. The U.S. CFTC regulations are designed to protect customers in the event of insolvency or financial instability of a futures commission merchant through which they clear their futures and futures options business. The Applicant receives acknowledgements from those of its banks and brokers holding the Applicant's client funds that such funds are to be separately held on behalf of the Filer's clients, with no right of set-off against the Applicant's obligations or debts; and
- (19) all representatives of the Applicant who trade options in the United States have passed the futures and options proficiency examination (i.e., the National Commodity Futures Examination (Series 3)) administered by U.S. FINRA.

(C) Based on the foregoing, the Commission is of the opinion that it would not be prejudicial to the public interest to grant this order.

IT IS ORDERED:

1. **THAT**, pursuant to section 66(1) of the CFA, the CFA International Dealer Relief is granted provided that:

- (a) at the time trading activity is engaged in:
 - (i) the Applicant is permitted to trade in Futures Contracts in the U.S. and is registered with the U.S. CFTC as a futures commission merchant and is a member of the U.S. NFA in good standing;
 - (ii) the Applicant's representatives are permitted to trade Futures Contracts in the U.S. and are registered with the U.S. CFTC and U.S. NFA; and

- (iii) the Applicant has filed a submission to jurisdiction and appointment of service in the form of Form 31-103F2 *Submission To Jurisdiction And Appointment Of Agent For Service* (“F2”) with the Manitoba Securities Commission except that the Applicant must delete from the F2 title “(sections 8.18 [*international dealer*] and 8.26 [*international adviser*])”, and the Applicant must delete paragraph 6 of the F2 referring to the section of NI 31-103 relied on, and in paragraph 11 of the F2 the Applicant must replace the phrase, “ceases to rely on section 8.18 [*international dealer*] or section 8.26 [*international adviser*]” with the phrase, “ceases to rely on the exemption from s. 24(1) of the Commodity Futures Act (Manitoba) granted by the Manitoba Securities Commission on [insert date of this order]”.
- (b) each client in Manitoba effecting Futures Trades through the Applicant is a Permitted Client and, if using a Non-RBC Clearing Broker, such clearing broker has represented and covenanted that it is or will be appropriately registered or exempt from registration under the CFA;
- (c) the Applicant only executes Futures Trades for clients in Manitoba that are Permitted Clients on the Recognized Exchanges;
- (d) the Applicant provides each client in Manitoba effecting Futures Trades through the Applicant with disclosure upon entering into the agreement by which it establishes an account with the Applicant that includes:
 - (i) a statement that there may be difficulty in enforcing any legal rights against the Applicant or any of its directors, officers or employees because they are resident outside of Canada and all or substantially all of their assets are situated outside of Canada;
 - (ii) a statement of the jurisdiction of the Applicant’s head office or principal place of business;
 - (iii) a statement that the Applicant is not registered as a dealer under the CFA and, accordingly, the protection available to clients of a futures commission merchant registered under the CFA will not be available to clients of the Applicant;
 - (iv) the name and address of the agent for service in Manitoba; and
 - (v) a risk disclosure statement providing substantially similar disclosure to the disclosure in Form 13 *Risk Disclosure Statement for Futures and Options Under Commodity Futures Act (Manitoba)*;

- (e) the Applicant notifies the Manitoba Securities Commission of any Regulatory Action after the date of this decision in respect of the Filer by completing and filing Appendix A within 30 days of the Applicant becoming aware of such action;
- (f) the CFA International Dealer Relief is available to the Applicant so long as it is not registered in any Canadian jurisdiction;
- (g) this decision comes into effect on October 22, 2019; and
- (h) this Order will expire on October 22, 2024, five years after the date this decision comes into effect.

2. **THAT** the fee for this order is \$650.

BY ORDER OF THE COMMISSION



Director