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Re. Proposed Ontario Securities Commission Rule 91-506 *Derivatives: Product Determination* (the "Scope Rule") and Proposed Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Trade Data Reporting* (the "TR Rule" and, with the "Scope Rule", the "OSC Proposals")

Draft Regulation 91-506 respecting Derivatives Determination and Draft Regulation 91-507 respecting Trade Repositories and Derivatives Trade Data Reporting of the Autorité des marchés financiers (the "AMF Proposals")

Proposed Manitoba Securities Commission Rule 91-506 *Derivatives: Product Determination* and Proposed Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Trade Data Reporting* (the "MSC Proposals")

Multilateral CSA Staff Notice 91-302 *Updated Model Rules – Derivatives Product Determination and Trade Repositories and Derivatives Data Reporting* (the "Updated Model Provincial Rules")

Ladies and Gentlemen:

TriOptima AB ("**TriOptima**") is pleased to submit the following comments in connection with the OSC Proposals, the AMF Proposals, the MSC Proposals and the Updated Model Provincial Rules (collectively, the "**Scope and TR Proposals**"). As discussed below in further detail, TriOptima is a provider of post-trade services to major market participants in the OTC derivatives markets.

While TriOptima understands and has assumed that the Scope and TR Proposals are largely harmonized, for convenience of reference, any references to specific sections of the Scope and TR Proposals are to the OSC Proposals but should be interpreted as a reference to the corresponding sections of the AMF Proposals and the Updated Model Provincial Rules. It is TriOptima's intention to comment on the Scope and TR Proposals as they are proposed to be adopted in each of the above jurisdictions. Each of the addressees listed above will be jointly referred to as the "**Commission**".

Any defined terms used have the meaning prescribed to them in the OSC Proposals, unless otherwise specified herein.

TriOptima

TriOptima offers post-trade services in the OTC derivatives markets. TriOptima is headquartered in Stockholm and also conducts its business through its four subsidiaries in New York, London, Singapore and Tokyo. The company's client base is made up of major broker/dealer banks and other financial institutions globally.

TriOptima currently offers three post-trade services for the OTC markets:

- *triReduce*: a service for early termination of OTC derivatives - so called portfolio compression[1],
- *triResolve*: a service for the reconciliation of counterparty positions in OTC derivatives, margin management and operational risk management; and
- *triBalance*: a service for the mitigation of portfolio risk imbalances across bilateral and cleared OTC derivative exposures[2].

TriOptima previously offered a trade reporting repository for interest rate derivatives, which has been wound down.

TriOptima's comments on the Scope and TR Proposals

As a provider of post-trade risk reduction services for the OTC-market and for reasons described below, TriOptima is seeking clarity to ensure that any transactions that come out of post-trade risk reduction services (as further defined below) should be reported to trade repositories within time frames appropriate to the nature of post-trade risk reduction services, should be differentiated from normal trading activities for public dissemination purposes, and third party service providers, such as TriOptima, should be able to obtain access to repository data upon consent by counterparties.

Post-trade risk reduction services

Post-trade risk reduction services, such as multilateral trade compression counterparty credit risk/portfolio rebalancing and basis risk reduction, can be clearly differentiated from trading activities in that they do not involve the interaction of buying and selling interests and are not price-forming. Instead, they are designed to reduce counterparty credit risk, basis risk and/or operational risk. Post-trade risk reduction services operate with some variation but there are common parameters that reflect their risk-reducing function and differentiate them from trading activity:

- They are multilateral and need to be executed in bulk as a single compound transaction to achieve the identified risk-reduction result and cannot be executed in part by any individual participant;
- There is no price negotiation – participants are not able to post bids or offers to enter into specific positions;
- They are designed to provide a result which is overall market risk neutral for each participant;
- They are designed to reduce unwanted secondary risks, such as counterparty credit risk, basis risk and/or operational risk – these risks have arisen as a result of contracts already entered into by the participants (e.g. because of their normal trading activities);

[1] See Annex 1.
[2] See Annex 2.

- They are non-continuous and non-real time – they operate on an overnight or intra-day basis using stale valuations

Providers of post-trade risk reduction services are not party to any transactions and do not provide advice in relation to any transactions. Rather, providers of post-trade risk reduction services perform a calculation exercise based on parameters received from participants participating in the service and report the calculated result back to the participant that verifies the result and decide whether or not to implement the calculated result.

As an example, a multilateral compression exercise results in the complete termination of some transactions and the aggregation or reducing of the notional value of other transactions. As defined in the U.S. Commodity Futures Trading Commission's ("**CFTC**") rule on Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants, 77 Fed. Reg. 55904 (September 11, 2012), a multilateral portfolio compression exercise is

> *"an exercise in which multiple swap counterparties wholly terminate or change the notional value of some or all of the swaps submitted by the counterparties for inclusion in the portfolio compression exercise and, depending on the methodology employed, replace the terminated swaps with other swaps whose combined notional value (or some other measure of risk) is less than the combined notional value (or some other measure or risk) of the terminated swaps in the compression exercise."*

In accordance with the above definition, compression can be accomplished through (i) the "amended swap" method where transactions are wholly or partially terminated to represent (as closely as possible) the net notional exposures between a pair of counterparties, or (ii) the "replacement swap" method where transactions are wholly terminated and compression replacement transactions which reflect more closely the net notional exposures between a pair of counterparties (hereinafter called "**replacement swap**") are entered into.

As noted above, there is no change in the counterparties, reference entity, or maximum maturity in either the "amended swap" or "replacement swap" method. These two compression methods are explained graphically in Annex 3.

Reporting and public dissemination of post-trade risk reduction transactions

Under the Scope and TR Proposals, a reporting counterparty shall make a report in real time unless it is not technologically practicable to do so. As transactions resulting from post-trade risk reduction services are executed in bulk and such bulks could consist of many thousands of individual transactions, participants and market infrastructure are likely to face considerable operational and technological constraints, making it impossible to report such transactions in real-time. In the over-the-counter derivatives market generally, there is comparatively low transaction volumes and as systems are not designed to instantly process thousands of transactions, it is not technologically practicable to report thousands of transactions in real-time or close to real-time.

As described above, transactions resulting from post-trade risk reduction services differ from normal trading activities and are entered into in bulk using stale valuations. If such transactions are to be made available to the public without being differentiated from normal trading activities, the market would be misled and distorted both in respect of prices and market turn-over. It should be noted that, as for inter-affiliate transaction data, the CFTC has exempted multilateral portfolio compression exercises from the definition of "publicly reportable swap transactions" that are subject to public dissemination and notes that it is an example of "swaps that are not arm's length and thus are not publicly reportable swap transactions/…/"[3]. In addition, as stale or even no prices are used for transactions resulting from post-trade risk reduction services, it will be inappropriate or even impossible for the reporting counterparty to include prices when reporting such transactions to a designated trade repository.

Based on the above, we would ask the Commission to (i) clarify that, for purposes of transactions resulting from bulk post-trade risk reduction services, such transactions shall not have to be reported in real-time as it is not technologically practicable for participants to do so; end-of-day reporting is more appropriate for transactions resulting from bulk post-trade risk reduction services, and (ii) clarify that transactions resulting from post-trade risk reduction services should be clearly differentiated from normal trading activities for public dissemination purposes (and no prices should be included). For the reasons mentioned above, we also believe that an indicator of whether a reported transaction came about as a result of a post-trade risk reduction service should be included in the reported data and no prices should have to be reported for such transactions.

Access to trade repository data

In order to promote a level playing field, TriOptima believes it is important that service providers are granted access to data in trade repositories upon consent by relevant counterparties to the trades submitted to the repositories and that trade repositories shall not be able to restrict such access based on reasons other than information security safeguards.[4]

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[3] See CFTC's rule on Real-Time Public Reporting of Swap Transaction Data, 77 Fed. Reg. 1182, at 1244 (January 9, 2012).

[4] See e.g. Article 78 (7) of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR).

We are happy to provide further information on the above, if and as required.

Yours faithfully,

TriOptima AB

Per Sjöberg
Chief Executive Officer

Christoffer Mohammar
General Counsel

Annex 1

Because of the interconnectedness of derivatives trading, active market participants have at any one time large numbers of contracts outstanding with multiple counterparties, each creating counterparty credit risk and an operational burden to manage and oversee. However, when these risks are viewed on a portfolio basis and compared against the portfolios of other participants, there are ready opportunities to reduce certain risks without changing one's market risk. triReduce compression allows participants to terminate contracts early in order to eliminate counterparty credit risk, lower the gross notional value of outstanding contracts, and reduce operational risks by decreasing the number of outstanding contracts. triReduce is operated for rates, credit and commodity derivatives and has helped remove in excess of $300 trillion of gross notional exposure from the financial system since its launch in 2003 including, more recently, cleared transactions. triReduce has approximately 180 subscribing legal entities.

Annex 2

The objective of the G20 commitments adopted in Pittsburgh 2009 is to mitigate systemic risk, and the actions supported by the G20 (including mandatory clearing) are means toward that end. While many OTC derivatives will be suitable for central clearing, some OTC derivatives will remain bilateral and not be cleared, and the combination of cleared and uncleared components in a portfolio may create risk imbalances within such portfolios and increase initial and variation margin requirements. The portfolio imbalances can however be effectively rebalanced by lowering portfolio risk/DV01 characteristics of the portfolio and, thus, systemic risks, by appropriate injections of new bilateral non-cleared trades. Injections of off-setting trades which are not cleared can help to rebalance and stabilize the portfolio by eliminating risk sensitivities in the portfolio. In a multilateral context, these trades can be generated without changing participants market risk and funding risk. TriOptima's triBalance (counterparty risk rebalancing) service was launched to enable rectification of such portfolio imbalances.

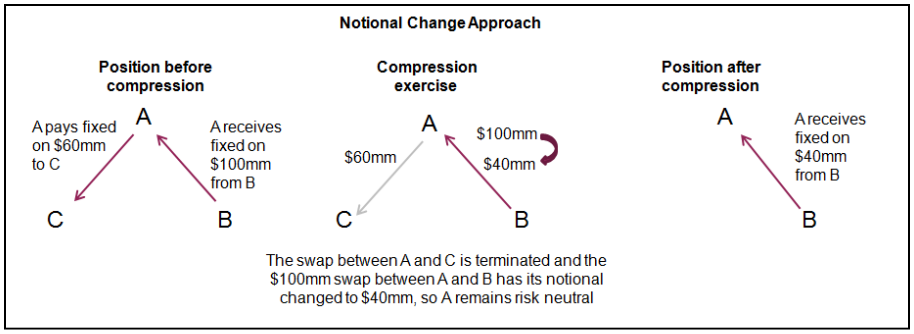
Annex 3

Compression methodology description

The triReduce compression process involves notional adjustment and/or replacement of transactions, depending on the methodology employed. The examples below illustrate how these approaches differ. In both methodologies, the counterparty credit exposure remains between the same counterparties that originally submitted the transaction.[5]

Example using notional change – amended swap (typically used for IRS products)

As a result of a compression exercise, a $100mm swap between parties A and B is required to be notionally changed to $40mm, in order that A remains overall risk neutral. Parties A and B adjust the notional on the swap in their respective systems from $100mm to $40mm. All swaps which are required to be notionally changed are enriched with an event processing ID by TriOptima.



[5] In the diagrams, only party A's risk neutrality is illustrated

Example using replacement swaps (typically used for CDS products)

For CDS products, although a swap may be notionally changed as in the description above, more commonly, the net position of two or more swaps is represented with a replacement swap.

Party A has two swaps in a CDX index (same maturity date and coupon)

- Swap 1 is $100mm bought protection versus counterparty B
- Swap 2 is $60mm sold protection versus counterparty C

As part of a compression exercise, both swaps are terminated. Party A's net position is represented with a replacement swap of $40mm bought protection versus counterparty B. The replacement swap is enriched with an event processing ID by TriOptima, which provides a common link between compressed and replacement swaps.