

Regulation to amend the Derivatives Regulation

On February 2, 2017, the *Autorité des marchés financiers* (the “Authority”) published for a 30-day comment period the Regulation to amend the Derivatives Regulation (the “Amending Regulation”).¹ The proposed amendments pertained to the identification of hedgers, the prohibition of binary options and the accounting principles that can be used by qualified persons in preparing their financial statements under section 11.36 of the Derivatives Regulation, CQLR, c. I-14.01, r. 1 (the “Regulation”). This notice provides an update to market participants on developments regarding these three proposed amendments.

1) Identification of hedgers

Further to comments received regarding the identification of hedgers, the Authority will not proceed with the proposed amendment. The Authority will address this issue in a harmonized manner with the other provinces as part of Proposed National Instrument 93-102 *Derivatives: Registration* on which the Canadian Securities Administrators (“CSA”) is currently working.

2) Prohibition of binary options

As part of the Amending Regulation, the Authority proposed to prohibit the offering to individuals of products commonly called “binary options” with a maturity of less than 30 days. This proposed prohibition generated much interest, and the CSA decided to develop a national instrument for the same purpose.

A proposed CSA multilateral instrument was thus prepared and published for comment on April 27, 2017. *Regulation 91-102 respecting Prohibition of Binary Options*, the final version of which was published on September 28, 2017² by the CSA, will come into force on December 12, 2017, subject to ministerial approval. In the interests of harmonizing the regulation Canada-wide in co-operation with the CSA, the Authority will not proceed with the proposed amendment to the Amending Regulation on this matter.

3) Section 11.36 of the Regulation

The proposed Amending Regulation was also intended to extend the accounting principles that can be used by qualified persons in preparing their financial statements to different accounting principles that are generally accepted in a jurisdiction of Canada or a foreign jurisdiction and include, but are not limited to, IFRS, Canadian GAAP and U.S. GAAP.

As no comments were received in this regard, the Authority will proceed with this amendment. The amendment will be integrated into the Regulation to amend the Derivatives Regulation that was published on July 27, 2017 as part of the implementation by the CSA of amendments to *Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations*, CQLR, c. V-1.1, r. 10 and *Regulation 33-109 respecting Registration Information*, CQLR, c. V-1.1, r. 12.³ Subject to ministerial approval, this amendment will come into force on December 4, 2017.

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¹ Bulletin of the Authority, Vol. 14, No. 4, section 6.2.1.

² Bulletin of the Authority, Vol. 14, No. 38, section 6.2.2.

³ Bulletin of the Authority, Vol. 14, No. 29, section 3.2.2.