

REGULATION 91-506 RESPECTING DERIVATIVES DETERMINATION

Derivatives Act
(chapter I-14.01, s. 175, par. (7))

Application

1. This Regulation applies to Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting (*insert reference*).

Interpretation

2. In this Regulation, the term “affiliate” has the same meaning as in subsection 1(3) of Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting.

Excluded derivatives

3. The Derivatives Act (chapter I-14.01) does not apply to any of the following contract or instrument:

- (a) a contract or an instrument regulated by,
 - (i) gaming control legislation of Canada or a jurisdiction of Canada, or
 - (ii) gaming control legislation of a foreign jurisdiction, if the contract or instrument
 - (A) is entered into outside of Canada,
 - (B) is not in violation of legislation of Canada or Québec, and
 - (C) would be regulated under gaming control legislation of Canada or Québec if it had been entered into in Québec;
- (b) an insurance or annuity contract entered into outside of Canada with an insurer holding a licence under insurance legislation of a foreign jurisdiction, if it would be regulated as insurance under insurance legislation of Canada or Québec if it had been entered into in Québec
- (c) a contract or instrument for the purchase and sale of currency that,
 - (i) except where all or part of the delivery of the currency referenced in the contract or instrument is rendered impossible or commercially unreasonable by an intervening event or occurrence not reasonably within the control of the parties, their affiliates or their agents, requires settlement by the delivery of the currency referenced in the contract or instrument,
 - (A) within two business days, or
 - (B) after two business days provided that the contract or instrument was entered into contemporaneously with a related security trade and the contract or instrument requires settlement on or before the relevant security trade settlement deadline,
 - (ii) is intended by the counterparties, at the time of the execution of the transaction, to be settled by the delivery of the currency referenced in the contract within the time periods set out in subparagraph (i), and

(iii) does not allow for the contract or instrument to be rolled over; and

(d) a contract or instrument for delivery of a commodity other than cash or currency that,

(i) is intended by the counterparties, at the time of execution of the transaction, to be settled by delivery of the commodity, and

(ii) does not allow for cash settlement in place of delivery except where all or part of the delivery is rendered impossible or commercially unreasonable by an intervening event or occurrence not reasonably within the control of the counterparties, their affiliates, or their agents.