

Draft Regulation

Derivatives Act
(chapter I-14.01, s. 175, subpars. (2), (3), (9) and (12))

Regulation to amend Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting

Notice is hereby given by the *Autorité des marchés financiers* (the "Authority") that, in accordance with section 175 of the *Derivatives Act* (chapter I-14.01) (the "Act"), the following Regulation, the text of which is published hereunder, may be made by the Authority and subsequently submitted to the Minister of Finance for approval, with or without amendment, after 30 days have elapsed since its publication in the Bulletin of the Authority:

- *Regulation to amend Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting* ("Regulation 91-507").

Background

Regulation 91-507 came into force on December 31, 2013.

On April 10, 2014, the Canadian Securities Administrators (the "CSA") announced via a press release that it intended to extend the date for the commencement of over-the-counter (OTC) derivatives trade reporting until October 31, 2014 for clearing agencies (clearing houses) and dealers, and until June 30, 2015 for all other OTC derivatives market participants.

On April 17, 2014, the Ontario Securities Commission (the "OSC") announced that it had made amendments to OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting (the "OSC Rule"), including extending the date for the commencement of OTC derivatives trade reporting set out under the OSC Rule. On this same date, the Authority published a notice announcing its intention to harmonize with the amendments announced by the OSC.

On May 15, 2014, the Authority published blanket exemption decision 2014-PDG-0051 in order to extend the date for the commencement of OTC derivatives trade reporting set out under Regulation 91-507.

The CSA Derivatives Committee (the "Committee") is continuing its work to establish a harmonized national regulatory framework and ensure the effective implementation of Regulation 91-507. In this perspective, and given the operational constraints raised by market participants, the following amendments will be made to Regulation 91-507:

1. Add Canadian financial institutions to section 25 of Regulation 91-507 with respect to the determination of the reporting counterparty.

In developing Regulation 91-507, the Committee's intention was to avoid duplicative reporting by imposing the reporting requirement on the most technologically sophisticated counterparty. Section 25 of Regulation 91-507 therefore imposes the registration requirement on the dealer, as defined under the Act.

However, due to the dealer business triggers developed by the CSA, financial institutions engaging in derivatives trading on their own behalf might not currently be subject to the registration requirement as a dealer under the Act.

To meet the objective of imposing the reporting requirement on the most sophisticated party, section 25 of Regulation 91-507 will be amended to explicitly add Canadian financial institutions to the determination of the reporting counterparty.

2. Specify that the reference to a “dealer” in section 25 of Regulation 91-507 covers all persons subject to the registration requirement as a dealer under the Act.
3. Amend the dates applicable to the data reporting requirement in respect of pre-existing transactions under section 34 of Regulation 91-507 as well as the transitional provisions under section 42 of Regulation 91-507 to reflect the extension of the commencement date of the reporting requirement by operation of blanket exemption decision 2014-PDG-0051 dated May 15, 2014.
4. Amend the dates set out in the transitional provisions under section 42 of Regulation 91-507 so that they conform to those in blanket exemption decision 2014-PDG-0051 dated May 15, 2014.
5. Add clearing houses to the transitional provisions under section 42 of Regulation 91-507.
6. Repeal Appendix B and amend paragraph 5 of section 26 of Regulation 91-507 so that other jurisdictions’ laws, regulations and instruments considered equivalent are those appearing on a list determined by the Authority rather than those listed in Appendix B.
7. Amend the data fields to be reported to the recognized trade repository in Appendix A of Regulation 91-507.

Request for comment

Comments regarding the above may be provided in hard copy or electronic form by **August 2, 2013** to the following:

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The Authority will publish all responses received on its website (www.lautorite.qc.ca).

Further information

Further information is available from:

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