

Regulation to amend Regulation 91-507 respecting trade repositories and derivatives data reportingⁱ

The *Autorité des marchés financiers* (the “Authority”) is publishing, in English and French, the following Regulation:

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

The Authority is also publishing in this Bulletin, in English and French, the *Amendments to Policy Statement to Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting* (the “Policy Statement”).

Background

On July 3, 2014, the Authority published, for comment, a Draft Regulation to amend Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting. The comment period expired on August 21, 2014. Further to the comments received as part of the consultation, the Authority revised the text of this draft as follows:

- The Authority is reversing the order in which Canadian financial institutions and persons subject to the dealer registration requirement are listed in the hierarchy under section 25 of *Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting*, CQLR, c. I-14.01, r. 1.1 (“Regulation 91-507”). Accordingly, where a Canadian financial institution transacts with a person subject to the dealer registration requirement, the latter is determined to be the reporting counterparty.
- The Authority is introducing the possibility, for two counterparties at the same level in the hierarchy under section 25 of Regulation 91-507 to enter into an agreement whereby one of them undertakes to act as the reporting counterparty for the purposes of fulfilling the reporting obligation under Regulation 91-507.
- The Authority is introducing the concept of "reporting clearing house" in the hierarchy under section 25 of Regulation 91-507. Therefore, not only clearing houses recognized or exempted by the Authority as such, but also those not recognized or exempted, that submitted an undertaking accepted by the Authority to act as the reporting counterparty, are required to fulfill the reporting obligation under Regulation 91-507.
- The Authority is repealing the requirement for a local counterparty, where it transacts with a foreign entity that is the reporting counterparty, to submit the report when the reporting counterparty does not fulfill its reporting obligation. Decision No. 2014-PDG-0084, effective on October 31, 2014 [(2014), Vol. 11, No. 31, AMF Bulletin, section 6.10], already exempts the local counterparty from the reporting obligation in this situation.

The Authority is maintaining the provisions of the Regulation to amend Regulation 91-507 intended to add Canadian financial institutions, so that the reporting obligation is that of the counterparty to the most technologically sophisticated transaction. The introduction of the possibility, for two counterparties at the same level in the hierarchy under section 25 of Regulation 91-507, to enter into an agreement whereby one of them undertakes to act as the

reporting counterparty, allows market participants to determine the reporting counterparty in accordance with the method that best suits their situation.

The Authority is also maintaining the provisions of the Regulation to amend Regulation 91-507 intended to repeal Appendix B and amend subsection 5 of section 26 of Regulation 91-507 to determine that the laws and regulations of jurisdictions considered to be equivalent are those appearing on a list prepared by the Authority, rather than those listed in Appendix B.

The Policy Statement is being amended, in particular, to specify that where a person is both subject to the dealer registration requirement under the *Derivatives Act*, CQLR, c. I-14.01, and is a Canadian financial institution, its status as a dealer prevails for the determination of the reporting counterparty. In addition, the Policy Statement is being amended in order to cite the methodology developed by the International Swaps and Derivatives Association as an example of an agreement whereby one of the counterparties undertakes to act as the reporting counterparty for the purposes of fulfilling the reporting obligation under Regulation 91-507.

Decisions

The Authority is publishing, in section 6.10 of in this Bulletin, Decision No. 2014-PDG-0109 titled *Décision générale relative à la législation équivalente en matière de déclaration des opérations dans un territoire étranger visée au paragraphe 5) de l'article 26 du Règlement 91-507 sur les référentiels centraux et la déclaration de données sur les dérivés*. The Authority therefore considers that the trade reporting rules of the U.S. Commodity Futures Trading Commission and those of the European Securities and Markets Authority are equivalent to the requirements imposed under Regulation 91-507. Market participants may consult the list of laws and regulations of jurisdictions other than Québec that are equivalent for the purposes of the deemed compliance provision in subsection 26(5) of Regulation 91-507 on the AMF website, under Regulation of Derivatives Markets in Québec.

Lastly, the Authority is also publishing, in section 6.10 of this Bulletin, Decision No. 2014-PDG-0124: *Révocation des décisions générales numéros 2014-PDG-0051 et 2014-PDG-0084*. These latest decisions have become redundant further to the coming into force of the Regulation to amend Regulation 91-507.

Notice of Publication

The Regulation to amend Regulation 91-507, made by the Authority on September 25, 2014, received ministerial approval as required and will come into force on **October 31, 2014**.

The Ministerial Order approving the Regulation to amend Regulation 91-507 was published in the *Gazette officielle du Québec*, dated October 29, 2014, and is reproduced below. The Policy Statement will take effect concurrently with the Regulation to amend Regulation 91-507.

Further information

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