

**AMENDMENTS TO POLICY STATEMENT TO REGULATION 91-507
RESPECTING TRADE REPOSITORIES AND DERIVATIVES DATA REPORTING**

1. Section 2 of *Policy Statement to Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting* is amended, in paragraph (1):

(1) by replacing, in the first paragraph, “In determining whether to designate an applicant as a trade repository under section 15 of the Act” with “In determining whether to recognize an applicant as a trade repository under sections 12 and 15 of the Act”;

(2) by replacing, in the first point under the first paragraph, the word “designate” with the word “recognize”.

2. Section 3 of the Policy Statement is amended by replacing, in the first paragraph of paragraph (2), the word “recognizes” with the word “acknowledges”.

3. Section 25 of the Policy Statement is replaced with the following:

“Reporting counterparty

“25. Section 25 outlines how the counterparty required to report derivatives data and fulfil the ongoing reporting obligations under the Regulation is determined. Reporting obligations on persons subject to the registration requirement as a dealer under the Act apply to a person who engages or purports to engage in the business of derivatives trading, irrespective of whether the person is a registrant or is exempt from the registration requirement as a dealer under the Act. Where such person is also a Canadian financial institution, its status as a dealer prevails for the purposes of Section 25.

Section 25 outlines a hierarchy for determining which counterparty to a transaction will be required to report the transaction based on the counterparty to the transaction that is best suited to fulfill the reporting obligation. For example, for transactions cleared through a reporting clearing house, the clearing house is best positioned to report derivatives data and is therefore required to act as reporting counterparty.

(3) Subsection 25(3) allows counterparties to agree amongst themselves which of them must act as the reporting counterparty if neither subsection 25(1) nor 25(2) applies. For example, the counterparties may use the ISDA methodology publicly available at www.isda.org that has been developed for Canada in order to facilitate one-sided transaction reporting and provide a consistent method for determining the party required to act as reporting counterparty.”

4. Section 26 of the Policy Statement is amended by replacing paragraph (5) with the following:

“(5) Subsection 26(5) provides for limited substituted compliance with this Regulation where a transaction has been reported to a recognized trade repository pursuant to the law of a province of Canada other than Québec or of a foreign jurisdiction appearing on a list determined by the Authority, provided that the additional conditions set out in paragraphs (a) and (c) are satisfied. The Authority will decide and publish on its web site the list of the laws and regulations of the jurisdictions outside of Québec that are equivalent for the purposes of the deemed compliance provision in subsection 26(5).”

5. Section 31 of the Policy Statement is amended by deleting paragraph (4).

6. Section 34 of the Policy Statement is replaced with the following:

“Pre-existing derivatives

“34. Section 34 outlines reporting obligations in relation to transactions that were entered into prior to the commencement of the reporting obligations. Where the

reporting counterparty is a reporting clearing house, a person subject to the registration requirement as a dealer under the Act or a Canadian financial institution, subsection 34(1) requires that pre-existing transactions that were entered into before October 31, 2014 and that will not expire or terminate on or before April 30, 2015 to be reported to a recognized trade repository no later than April 30, 2015. Similarly, where a reporting counterparty is neither a reporting clearing house, nor a person subject to the registration requirement as a dealer under the Act, nor a Canadian financial institution, subsection 34(1.1) requires that pre-existing transactions that were entered into before June 30, 2015 and that will not expire or terminate on or before December 31, 2015 to be reported to a recognized trade repository no later than December 31, 2015. In addition, only the data indicated in the column entitled “Required for Pre-existing Transactions” in Appendix A will be required to be reported for pre-existing transactions.

Transactions that are entered into before October 31, 2014 and that expire or terminate on or before April 30, 2015 will not be subject to the reporting obligation if the reporting counterparty to the transaction is a reporting clearing house, a person subject to the registration requirement as a dealer under the Act or a Canadian financial institution. Similarly, transactions for which the reporting counterparty is neither a reporting clearing house, nor a person subject to the registration requirement as a dealer under the Act, nor a Canadian financial institution, will not be subject to the reporting obligation if they are entered into before June 30, 2015 but will expire or terminate on or before December 31, 2015. These transactions are exempted from the reporting obligation in the Regulation, to relieve some of the reporting burden for counterparties and because they would provide marginal utility to the Authority due to their imminent termination or expiry.

The derivatives data required to be reported for pre-existing transactions under section 34 is substantively the same as the requirement under CFTC Rule 17 CFR Part 46 – *Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps*. Therefore, to the extent that a reporting counterparty has reported pre-existing transaction derivatives data required by the CFTC rule, this would meet the derivatives data reporting requirements under section 34. This interpretation applies only to pre-existing transactions.”.

7. Section 42 of the Policy Statement is replaced with the following:

“Transitional and final provisions

“42. (2) The requirement under subsection 39(3) to make transaction level data reports available to the public does not apply until April 30, 2015.

(3) If the reporting counterparty is neither a reporting clearing house, nor a person subject to the registration requirement as a dealer under the Act, nor a Canadian financial institution, subsection 42(3) provides that no reporting is required until June 30, 2015. For example, where the counterparties to a transaction are a person subject to the registration requirement as a dealer under the Act and a person that is not subject to such requirement, the person subject to the registration requirement will be required to report according to the timing outlined in subsection 42(1).

(4) Subsection 42(4) provides that, if the reporting counterparty to the transaction is a reporting clearing house, a person subject to the registration requirement as a dealer under the Act or a Canadian financial institution, no reporting is required for pre-existing transactions that terminate or expire on or before April 30, 2015.

(5) Subsection 42(5) provides that, if the reporting counterparty to the transaction is neither a reporting clearing house, nor a person subject to the registration requirement as a dealer under the Act, nor a Canadian financial institution, no reporting is required for pre-existing transactions that terminate or expire on or before December 31, 2015.”.