

## Draft regulation

### **Derivatives Act**

(chapter I-14.01, s. 175, par. 1, subpar. 2°, 3°, 9°, 11°, 12° et 29°)

### **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* (CQLR, chapter I-14.01) (the "Act"), the *Regulation to amend Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting* (the "Regulation to amend Regulation 91-507"), the text of which is published with this Notice, 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.

The Authority is also publishing in accordance with section 96 of the Act, changes to the following Policy Statements, the texts of which are published with this Notice:

- Amendments to *Policy Statement to Regulation 91-506 respecting derivatives determination* (the "product determination Policy Statement");
- *Policy Statement to Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting* (blacklined version) (the "trade reporting Policy Statement").

Collectively, the Regulation to amend Regulation 91-507 and the proposed changes to the trade reporting Policy Statement are referred to as the "proposed trade reporting amendments". The Authority is issuing this Notice to solicit comments on both the proposed trade reporting amendments and the proposed changes to the product determination Policy Statement. The Authority welcomes all comments on this publication and have also included specific questions in the Request for Comments section.

### **Substance and purpose**

The proposed trade reporting amendments have been developed in response to coordinated international efforts to streamline and harmonize derivatives data reporting standards.

Global harmonization of data reporting standards will significantly reduce regulatory burden by enabling market participants to take a more consistent approach to compliance. *Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting* (chapter I-14.01, r. 1.1) ("Regulation 91-507") currently includes data elements that are not precisely described and are not standardized across global regulators. This has three important consequences. First, it results in regulatory burden for market participants who report data to multiple global regulators, as they must provide distinct data elements to each regulator. Second, it results in market participants reporting more data than necessary because they may be unsure what is required under certain data elements. Third, it results in inconsistent data for the Authority and the public. By harmonizing and clarifying both the data elements and the technical format and values for reporting, the Authority will reduce burden on market participants by reducing the data that they provide and enabling them to harmonize their reporting systems across multiple global regulators. This should reduce the complexity of their reporting systems and decrease ongoing operational and compliance costs involved in interpreting and monitoring global reporting requirements, while at the same time strengthening the quality of the data.

Improvements to data quality (including the accuracy and consistency of data) promote confidence in Quebec's capital markets by improving transparency in the derivatives market and enabling the Authority to more effectively:

- provide oversight of the emergence of risks and vulnerabilities that can threaten the stability of Quebec’s capital markets and the financial system,
- identify challenges (such as access to liquidity, market fragmentation, and trends in price formation) that may impede market efficiency,
- identify opportunities to strengthen and increase the competitiveness of Quebec markets, and improve policy development, and
- monitor markets for market manipulation and other fraudulent trading activity that can harm investors.

In particular, the proposed trade reporting amendments update the data elements that are required to be reported under Regulation 91-507. These updated data elements, together with their definition, format, and usage, have been harmonized with global guidance developed by the Committee on Payments and Market Infrastructures (the “CPMI”) and the International Organization of Securities Commissions (the “IOSCO”) working group for the harmonization of key over-the-counter (“OTC”) derivatives data elements (the “CPMI-IOSCO working group”), with significant participation from the Authority. Harmonized data elements include the unique transaction identifier (a unique identifier for each transaction) (the “UTI”), the unique product identifier (a unique identifier for each product) (the “UPI”), and other critical data elements reflected in Appendix A to Regulation 91-507.<sup>1</sup>

In addition to harmonizing data reporting standards, the proposed trade reporting amendments will introduce other notable changes, including:

- increased harmonization and alignment with domestic derivatives regulation and policy-making, such as a harmonized threshold in the commodity derivatives exclusion for non-dealers and a harmonized definition of “affiliated entity”;
- updated recognized trade repository governance, risk and operational requirements to align with international standards;
- improvements that are designed to enhance data accuracy and consistency, such as data validation and verification, similar to other global regulators;
- clearer guidance for market participants through a new administrative technical manual and a substantial redraft of the trade reporting Policy Statement.

The purpose of the proposed changes to the product determination Policy Statement is to clarify the current interpretation that, similar to other financial commodities that do not come within the exclusion in paragraph 2(1)(d) of *Regulation 91-506 respecting Derivatives Determination* (chapter I-14.01, r. 0.1) (“Regulation 91-506”), certain crypto assets could also be considered “financial commodities” and therefore, would not fall under the exclusion in paragraph 2(1)(d) of Regulation 91-506.

## Background

Regulation 91-506 and Regulation 91-507 became effective on December 31, 2013. Amendments to Regulation 91-507 were made effective on October 31<sup>st</sup>, 2014 and on July 29, 2016.

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<sup>1</sup> See February 2017 *Guidance on the Harmonisation of the Unique Transaction Identifier* (“UTI Technical Guidance”) at <https://www.bis.org/cpmi/publ/d158.pdf>, September 2017 *Technical Guidance on the Harmonisation of the Unique Product Identifier* (“UPI Technical Guidance”) at <https://www.bis.org/cpmi/publ/d169.pdf> and April 2018 *Technical Guidance on the Harmonisation of Critical OTC Derivatives Data Elements (other than UTI and UPI)* at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD598.pdf>, updated in September 2021 at [https://www.leiroc.org/leiroc\\_gls/index.htm](https://www.leiroc.org/leiroc_gls/index.htm) (“CDE Technical Guidance”).

Based on feedback from various market participants, international developments, and in order to more effectively and efficiently promote the underlying policy goals, the Authority is proposing to further amend Regulation 91-507 and make changes to the trade reporting Policy Statement and product determination Policy Statement. The details of the proposed trade reporting amendments and the proposed changes to the product determination Policy Statement are discussed below.

### **Summary of proposed trade reporting amendments**

In drafting the proposed trade reporting amendments, the Authority aimed to reduce regulatory burden for market participants subject to Regulation 91-507 while achieving necessary regulatory goals. The Authority believes the proposed trade reporting amendments achieve this goal by harmonizing data reporting requirements under Regulation 91-507 with updates to international data reporting standards. Notably, these amendments will minimize the regulatory burden for many market participants that report transactions globally, as the data elements under Regulation 91-507 will correspond with data elements in other jurisdictions. Similarly, these amendments will minimize the regulatory burden for recognized trade repositories, as the data elements that they collect and the other requirements that apply to them will more closely align with international standards.

The proposed trade reporting amendments to harmonize data fields include:

- ***Amendments in respect of the UTI***

The Authority has proposed amendments to implement the UTI Technical Guidance published by the CPMI-IOSCO working group. These amendments set out a new hierarchy to determine which entity is responsible for generating the UTI for a transaction. The hierarchy is intended to align globally while also generally aligning with the reporting counterparty hierarchy under subsections 25(1) to (4).

- ***Amendments in respect of the UPI***

The Authority has proposed amendments to implement the UPI Technical Guidance published by the CPMI-IOSCO working group. These amendments require a reporting counterparty to identify a transaction through the means of a UPI assigned by the Derivatives Service Bureau.<sup>2</sup>

- ***Updates to Appendix A of Regulation 91-507***

The Authority has updated Appendix A *Minimum data fields required to be reported to a recognized trade repository* of Regulation 91-507 to reflect global standards set out in the CDE Technical Guidance, including harmonizing the “Data Element Descriptions” column with globally standard descriptions. The Authority has streamlined and removed a number of data elements to align with the CDE Technical Guidance and other global regulators. For example, by eliminating the “Other details” data element in Regulation 91-507, which requires market participants to “provide any additional information that may be necessary” the Authority will eliminate thousands of details that market participants are reporting under this data element given the uncertainty as to what is required under this data element.

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<sup>2</sup> Derivatives Service Bureau would be defined in Regulation 91-507 as a subsidiary of the Association of National Numbering Agencies incorporated as The Derivatives Service Bureau (DSB) Limited and designated by the Financial Stability Board as both the service provider for the unique product identifier system assigned to a derivative and the operator of the unique product identifier reference data library, or any successor thereto.

- ***New AMF Derivatives Data Technical Manual***

A new AMF Derivatives Data Technical Manual is being created to inform market participants on how to consistently report in accordance with Regulation 91-507, which includes guidance on administrative matters such as the format and values for reporting in line with global data standards, together with examples. This approach aligns with the approach taken by the U.S. Commodity Futures Trading Commission (the “CFTC”) and would permit flexibility for future updates to administrative technical guidance to maintain harmonization with global changes in reporting formats and values while maintaining the basic data elements in Appendix A to Regulation 91-507. A draft of the AMF Derivatives Data Technical Manual has been introduced as Appendix A of the trade reporting Policy Statement.

In addition to the changes to harmonize data reporting with international standards, other notable changes included in the Regulation to amend Regulation 91-507 and the trade reporting Policy Statement include:

- ***Amendments to the interpretation of “affiliated person”***

In response to comments the Authority received from stakeholders to further harmonize this concept with other CSA jurisdictions,<sup>3</sup> the proposed amendments to the concept of “affiliated person” align with the concept of “affiliated entity” under proposed *Regulation 93-101 respecting Derivatives: Business Conduct*,<sup>4</sup> which will result in increased harmonization under OTC derivatives related rules and across the trade reporting rules applicable in other Canadian jurisdictions.<sup>5</sup>

- ***Obligations of recognized trade repositories***

The Authority has updated recognized trade repository governance, risk and operational requirements to better align with international Principles for Financial Market Infrastructures standards<sup>6</sup> and to address comments that arose in connection with a CPMI-IOSCO assessment that addressed the implementation of these standards<sup>7</sup>. In particular, the Authority proposes a new section 14.1 to clarify the responsibilities of a recognized trade repository to ensure efficient and effective service to the market participants it serves. This would include having mechanisms in place to review on a regular basis its service levels, pricing structure, costs and operational reliability.

The Authority also proposes a new section 24.1 setting out that a recognized trade repository must maintain controls and procedures to manage risk arising from links<sup>8</sup>, such as networks that link various entities. When applicable, a recognized trade repository is also expected to

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<sup>3</sup> For example: comments to *Draft Regulation to amend Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting*, November 5, 2015; comments to *CSA Notice of Consultation, Draft Regulation 93-102 respecting Derivatives: Registration, Draft Policy Statement to Regulation 93-102 respecting Derivatives: Registration*, April 19, 2018 (the “Proposed Registration Regulation”); comments to *CSA Notice of Second Consultation, Draft Regulation 93-101 respecting Derivatives: Business Conduct, Draft Policy Statement to Regulation 93-101 respecting Derivatives: Business Conduct*, June 14, 2018.

<sup>4</sup> *CSA Notice of Third Consultation, Draft Regulation 93-101 respecting Derivatives: Business Conduct, Draft Policy Statement to Regulation 93-101 respecting Derivatives: Business Conduct*, January 20, 2022 (the “Proposed Business Conduct Regulation”).

<sup>5</sup> Manitoba Securities Commission Rule 91-507: *Trade Repositories and Derivatives Data Reporting*; OSC Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (Ontario); Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting*.

<sup>6</sup> See, <https://www.bis.org/cpmi/publ/d101a.pdf>

<sup>7</sup> <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD608.pdf>

<sup>8</sup> Link would be defined in Regulation 91-507 as a contractual and operational arrangement that, directly or indirectly through an intermediary, connects a system of a recognized trade repository with at least a system operated by another person for the acceptance, retention, use, disclosure or provision of access to derivatives data.

adequately oversee and mitigate risks associated with tiered participation arrangements, such as indirect participants.

- ***Prohibition on disclosure of counterparty identity by a recognized trade repository***

The Authority proposes a new section 22.1 to align with CFTC requirements<sup>9</sup> and ensure that the identity of a counterparty to an anonymous transaction executed on a derivatives trading facility is not disclosed to users of the recognized trade repository post-execution. Only a transaction in respect of which a counterparty does not know the identity of its counterparty prior to or at the time of execution of the transaction and cleared through a reporting clearing house is protected under the proposed section 22.1.

- ***Validation of data***

Validation is a new concept that is designed to ensure that the required data elements set out in Appendix A of Regulation 91-507 have been reported.

Amendments to subsection 22.2(1) require a recognized trade repository to validate that the derivatives data received from a reporting counterparty satisfies the data elements in Appendix A of Regulation 91-507<sup>10</sup>. A recognized trade repository must notify a reporting counterparty whether or not the derivatives data that it has reported has satisfied the recognized trade repository's validation procedures.

Under subsection 26(6), the reporting counterparty to a transaction has not fulfilled its reporting obligations unless and until all relevant derivatives data reported satisfies the validation procedures of the recognized trade repository.

Subject to certain exceptions, a recognized trade repository must create and maintain records of all the derivatives data reported that failed to satisfy its validation procedures.

By ensuring that required derivatives data is reported in a consistent manner, the Authority hopes to promote more prompt and efficient reporting and superior data quality.<sup>11</sup>

- ***Verification of data accuracy***

Currently, a recognized trade repository is required to confirm data accuracy with reporting counterparties. The Authority has replaced this requirement with two distinct requirements that are intended to more effectively promote data accuracy.<sup>12</sup>

First, under paragraph 26.1(1)(a), all reporting counterparties must ensure that all reported derivatives data is accurate and contains no misrepresentation. To facilitate this requirement, section 38 provides that a recognized trade repository must provide counterparties to a transaction with timely access to all derivatives data relevant to that transaction which is submitted to the recognized trade repository

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<sup>9</sup> 17 CFR § 49.17(f)(2).

<sup>10</sup> Pursuant to a proposed new subsection 14(3), a recognized trade repository must accept derivatives data that conforms to these data elements.

<sup>11</sup> This process is also intended generally to align with CFTC requirements regarding validation that will apply to recognized trade repositories and many reporting counterparties. See 17 CFR § 45.13 and 17 CFR § 49.10.

<sup>12</sup> Verification of data accuracy is intended broadly to align with similar CFTC requirements under 17 CFR § 45.14 and 17 CFR § 49.11 that will apply to recognized trade repositories and many reporting counterparties. One important difference is that the CFTC requires reporting counterparties that are not swap dealers, major swap participants or derivatives clearing organizations to verify data once every calendar quarter, while the Authority proposes that it is appropriate not to require this in Quebec due to the burden it would impose on the non-dealer community.

Second, under paragraph 26.1(1)(b), reporting counterparties that are persons subject to the registration requirement as a dealer under the Act, Canadian financial institutions or reporting clearing houses are also required to verify the accuracy of data every 30 days. Section 23 requires a recognized trade repository to establish, maintain and enforce written policies and procedures to enable reporting counterparties to meet these obligations.

- ***Maintenance and renewal of legal entity identifiers***

Currently, Regulation 91-507 requires a local counterparty under section 28.1 to obtain, maintain and renew a legal entity identifier (“LEI”). The Authority is proposing to extend this requirement to also apply to reporting counterparties that are not local counterparties. The extension of this requirement (which will primarily impact foreign derivatives dealers and reporting clearing houses) will improve the accuracy of derivatives data by ensuring that the information associated with LEIs remains updated and relevant.

- ***Position level data***

The Authority hopes to reduce regulatory burden by permitting the reporting of aggregate position level data under new section 32.1, as an optional alternative in certain circumstances to reporting lifecycle events. This will enable some market participants to report a netted aggregate of multiple transactions, instead of reporting lifecycle events separately for each transaction, provided the transactions meet certain criteria, including that they have no expiration date, involve identical contract specifications, and are replaceable with each other.

- ***Termination of an original transaction by a reporting clearing house***

The Authority proposes a new subsection 32(3) which requires a reporting clearing house to report the termination of an original transaction for a cleared transaction, consistent with CFTC requirements.<sup>13</sup>

- ***Reporting of collateral and margin data***

While Regulation 91-507 requires reporting counterparties to indicate whether a transaction is collateralized, the Authority proposes amendments to subsection 33(1) to require that a reporting counterparty that is a person subject to the registration requirement as a dealer under the Act, a Canadian financial institution or a reporting clearing house report collateral and margin data each business day until the transaction is terminated or expires. Accordingly, the Authority has introduced new data elements relating to collateral and margin data in Appendix A of Regulation 91-507 that reflect new global standards set out in the CDE Technical Guidance published by the CPMI-IOSCO working group. This additional data will support the Authority’s systemic risk analysis.

- ***Derivatives trading facility***

The Authority proposes a new section 36.1 setting out that where a transaction involving a local counterparty is executed anonymously on a derivatives trading facility and is intended to be cleared, the derivatives trading facility has the obligations of a reporting counterparty, and the reporting hierarchy in section 25 does not apply.

It is not feasible for reporting counterparties to report these transactions as currently required under Regulation 91-507. For example, in an anonymous transaction between Party A and Party B:

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<sup>13</sup> 17 CFR § 45.4(b).

- If Party A is a local counterparty, it will know that the transaction is required to be reported under Regulation 91-507. However, without knowing the identity of Party B, Party A will be unable to determine which counterparty has the reporting obligation. If Party A were to report the transaction, it would be unable to report the legal entity identifier of Party B or the jurisdictions where Party B is a local counterparty if applicable, as required under Regulation 91-507.
- If Party B is not a local counterparty, the transaction is not required to be reported under Regulation 91-507 unless Party A is a local counterparty, which Party B is not able to determine. This situation arises where, for example, Party B is a foreign person that is subject to the registration requirement as a dealer under the Act.

In these circumstances, the Authority believes that the derivatives trading facility is best positioned to report the transaction, given that it is able to ascertain the identity of both counterparties. The Authority believes there is no other alternative that results in accurate and complete data in connection with these transactions.

It is important that an original transaction in these circumstances be reported because, among other reasons, data in respect of an original transaction is publicly disseminated, while data in respect of the resulting novated transactions with the reporting clearing house is not. Transparency is one of the fundamental policy objectives of Regulation 91-507 and promotes confidence in Quebec's derivatives market.

While this represents a new obligation on derivatives trading facility, the Authority considered the following factors that may mitigate the impact of this change:

- at this time, the Authority is only aware of swap execution facilities that permit such anonymous transactions, and these entities already have reporting obligations in these circumstances under CFTC requirements;<sup>14</sup>
- the three CFTC registered swap data repositories are the same entities as the recognized trade repositories in Quebec, and as a result, swap execution facilities should be able to continue reporting to the same repository under Regulation 91-507;
- the data elements under Regulation 91-507 generally align with CFTC requirements, with some exceptions;
- because these original transactions are typically novated immediately to the clearing house, there should be no ongoing reporting of valuation and collateral and margin data, and as discussed above, the reporting clearing house will report the termination of the original transaction consistent with CFTC requirements.

The Authority continues to require reporting counterparties to report transactions on a derivatives trading facility that are not anonymously executed.

- ***Burden reduction for non-dealers***

The Authority proposes several amendments that reduce regulatory burden for non-dealers:

- *Verification:* As noted above, the data verification requirements under subsection 26.1(1) will not apply to non-dealers. While reporting counterparties that are not persons subject to the registration requirement as a dealer under the Act, Canadian financial institutions or reporting

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<sup>14</sup> 17 CFR § 43.3(a)(2) and 17 CFR § 45.3(a).

clearing houses, must ensure the accuracy of the data that they report, they will not have to verify the accuracy of that data every 30 days.

- *Valuation, collateral and margin data:* The Authority proposes amendments to section 33 such that the requirement to report valuation, collateral and margin data only applies to persons subject to the registration requirement as a dealer under the Act, Canadian financial institutions and reporting clearing houses. This is a change from the current requirement where non-dealers must report valuation data quarterly.
- *Commodity exclusion:* The Authority proposes amendments to section 40 such that a non-dealer local counterparty with an aggregate month-end gross notional outstanding less than \$250 000 000 in respect of physical commodity transactions is not required to report derivatives data in respect of physical commodity transactions. This is an increase in exemptive relief from \$500,000. This increase is necessary to achieve harmonization with the other CSA jurisdictions. In the Quebec market, it represents a relatively immaterial number of transactions and will reduce burden on these market participants.

- ***Individuals will be a local counterparty***

Individuals are currently not local counterparties under Regulation 91-507. Transactions with individuals are nevertheless required to be reported where the other counterparty to the transaction is a local counterparty (for example, a person subject to the registration requirement as a dealer under the Act transacting with an individual). Where a transaction is between an individual located in Quebec and a foreign person subject to the registration requirement as a dealer under the Act, the transaction is not currently required to be reported as it does not involve a local counterparty. This results in inconsistent data regarding transactions with individuals, which are becoming increasingly relevant in connection with the Authority's oversight of the derivatives market.

As a result, the Authority proposes to add individuals who are residents of Quebec to the definition of "local counterparty". Consequently, for example, a transaction between an individual who is a resident of Quebec and a foreign person subject to the registration requirement as a dealer under the Act will now be required to be reported by such foreign person.

The Authority anticipates minimal additional regulatory burden in connection with this requirement, as persons subject to the registration requirement as a dealer under the Act should know the location of their counterparties who are individuals without the need for additional outreach. The Authority also notes that data relating to individuals continues to be anonymized because individuals are not required to obtain a legal entity identifier under Regulation 91-507.

The Authority has added a new section 41.1 to exclude individuals from the requirement to report transactions under Regulation 91-507.

In addition to the above noted changes, the proposed trade reporting amendments include the following changes that clarify the intended application of certain provisions of Regulation 91-507 as well as other house-keeping changes:

- ***Amendments to Appendix C of Regulation 91-507***

Recognized trade repositories require certain periods of downtime to perform testing, maintenance and upgrades, and may therefore not be able to publicly disseminate certain information 48 hours after the time and date represented by the execution timestamp field of a transaction as required under Appendix C *Recognized trade repository requirements for the public dissemination of derivatives data*. As a result, the proposed trade reporting amendments permit recognized trade repositories to publicly disseminate certain information as soon as



technologically practicable following the conclusion of a period of routine or ad hoc downtime that is required for such reasons.

- ***Correction of data available to regulators and correction of data available to the public***

The Authority has clarified in paragraph 37(1)(d) that data provided to the Authority by a recognized trade repository must be corrected following a correction to an error or omission in reported derivatives data. Similarly, the Authority has clarified in paragraphs 39(1)(b) and 39(3)(b) that aggregate data and transaction level reports made available to the public by a recognized trade repository must be corrected following a correction to an error or omission in reported derivatives data.

- ***Redraft of the trade reporting Policy Statement***

The Authority has redrafted the trade reporting Policy Statement to provide clearer guidance to market participants subject to Regulation 91-507.

### **Equivalent trade reporting laws of foreign jurisdictions**

The Authority intends to update its list of equivalent trade reporting laws of foreign jurisdictions subject to deemed compliance pursuant to subsection 26(5) of Regulation 91-507 to reflect current equivalent derivatives trade reporting laws of the European Union and to add equivalent derivatives trade reporting laws of the United Kingdom.

### **Benchmark reference rates**

The Authority is monitoring changes to benchmark reference rates, including recent updates relating to CDOR, USD LIBOR, EURIBOR and GBP LIBOR, which will affect indices that the Authority requires to be publicly disseminated. The Authority will continue to monitor these developments as they affect trading liquidity, and the Authority will assess whether other products are suitable for public dissemination at a later date.

### **Transition Period/Differences in Data Elements with CFTC**

The Authority understands that the CFTC will be harmonizing with the global trade reporting standards set out by the CPMI-IOSCO working group in two phases, with the first set of amendments to take effect in or about December 2022 and the second set of amendments to take effect in or about December 2023 (the "CFTC amendments"). The Authority is aimed to finalize the proposed trade reporting amendments and implement them in 2024 after the CFTC Amendments. Accordingly, there will be a period of time where reporting counterparties will be subject to the new global standards in some jurisdictions but not subject to them in Quebec. The Authority is developing guidance to assist market participants during this transition period.

### **Summary of the changes proposed to the product determination Policy Statement**

The proposed changes to the product determination Policy Statement clarifies the current interpretation that, similar to other financial commodities that do not come within the exclusion in paragraph 2(1)(d) of Regulation 91-506, certain crypto assets that could be "financial commodities" would not fall under the exclusion in that paragraph. Accordingly, derivatives linked to these crypto assets would be required to be reported under Regulation 91-507. The Authority has proposed the same clarification in the trade reporting Policy Statement regarding the commodity exclusion under section 40.

## **Alternatives considered**

The Authority did not consider alternatives to the proposed trade reporting amendments. Given the global nature of derivatives markets, it is critical that Regulation 91-507 aligns with global standards. Accordingly, the proposed trade reporting amendments are necessary to harmonize Regulation 91-507, which will provide for more efficient and consistent derivatives data reporting and lead to a reduction of regulatory burden for most market participants.

## **Unpublished materials**

In developing the proposed trade reporting amendments, the Authority has not relied on any significant unpublished study, report or other written materials.

## **Request for comments**

In addition to your comments on all aspects of the proposed trade reporting amendments, the Authority also seeks specific feedback on the following questions:

### 1) Harmonization with global standards

The Authority has updated the required data elements for reporting market participants as set out in Appendix A of Regulation 91-507 with the goal of harmonizing with global standards and accordingly, reducing regulatory burden. As well, the Authority created a new AMF Derivatives Data Technical Manual to inform reporting market participants on administrative matters for reporting in accordance with Regulation 91-507.

Please provide your comments on whether you anticipate that the changes to the data elements requirements and the corresponding AMF Derivatives Data Technical Manual will reduce regulatory burden and increase efficiency and clarity when meeting trade reporting requirements.

### 2) Data accuracy

The Authority has proposed replacing the current concept of confirmation of data accuracy with a requirement under paragraph 26.1(1)(a) for all reporting counterparties to ensure that all reported derivatives data is accurate and contains no misrepresentation and a requirement under paragraph 26.1(1)(b) for reporting counterparties that are persons subject to the registration requirement as a dealer under the Act, Canadian financial institutions and reporting clearing houses to verify the accuracy of data every 30 days. A recognized trade repository must establish written policies and procedures to enable the reporting counterparty to carry out its verification obligations under paragraph 26.1(1)(b); however, while a recognized trade repository must provide counterparties to a transaction with access to derivatives data, the Authority has not contemplated a specific requirement for policies and procedures designed to enable the requirement under paragraph 26.1(1)(a).

Is it necessary for a recognized trade repository to implement policies and procedures to enable all reporting counterparties to ensure that all reported derivatives data is accurate and contains no misrepresentation, or is providing access to such counterparties sufficient to enable them to fulfill this requirement?

### 3) Maintenance and renewal of LEIs

The Regulation to amend Regulation 91-507 requires a local counterparty under section 28.1 to maintain and renew its LEI. However, the Authority has identified instances where non-reporting local counterparties are not maintaining and renewing their LEIs, as required. As a result, the LEIs lapse and the information associated with them is no longer current. This reduces the benefits associated

with LEIs. While the Authority does not currently expect reporting counterparties to verify the maintenance and renewal of LEIs of their counterparties, the Authority is interested to receive comments from market participants regarding any potential steps that could be taken to improve the maintenance and renewal of LEIs of non-reporting counterparties.

Comments regarding the above may be provided in hard copy or electronic form by October 7, 2022 to the following:

M<sup>e</sup> Philippe Lebel  
Corporate Secretary and Executive Director, Legal Affairs  
Autorité des marchés financiers  
Place de la Cité, tour Cominar  
2640, boulevard Laurier, bureau 400  
Québec (Québec) G1V 5C1  
Fax: 514 864-6381  
[consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

The Authority will publish all responses received on its website ([www.lautorite.qc.ca](http://www.lautorite.qc.ca)).

### **Questions**

Further information is available from:

Dominique Martin  
Director, Oversight or Trading Activities  
Autorité des marchés financiers  
514 395-0337 ext. 4351  
Toll-free: 1 877 525-0337  
[dominique.martin@lautorite.qc.ca](mailto:dominique.martin@lautorite.qc.ca)

**June 9, 2022**