

## **Draft Regulation**

### Derivatives Act

(chapter I-14.01, s. 96, s. 175, par. 1, subpars. (1), (2), (3), (9), (11), (12), (16), (22), (26) and (29))

## **Regulation to amend the Derivatives Regulation**

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 the Derivatives 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.

## **Background**

The Authority is proposing to update the Derivatives Regulation (CQLR, chapter I-14.01, r. 1) (the “Regulation”) to adapt it to the changing derivatives market.

## **Description of proposed amendments**

### *a) Section 1.1: Requirement of hedger to deliver certification*

The Authority is proposing a new requirement for persons who are acting exclusively as hedgers and who wish to rely on their status as accredited counterparties. These hedgers must now deliver certification to that effect to the Authority within 30 days after entering into a derivatives transaction, and annually thereafter. This requirement is in addition to the requirement to keep derivatives transaction records for a period of seven years.

The delivery of this certification will enable the Authority to better determine the identity and number of hedgers in order to assess their status as accredited counterparties.

### *b) Sections 11.6 and 11.13: Amendment to training, education and experience requirements of advising representatives, associate advising representatives or chief compliance officers of derivatives portfolio managers at the time of their derivatives registration with the Authority*

The Authority is proposing to amend these requirements to include specific experience and training requirements for individuals concerned. The proposed amendments are intended to streamline the operational registration process for individuals with the requisite experience for specific derivatives for which they wish to act or where they have equivalent training to that currently required under the Regulation.

### *c) Section 11.14: Expansion of scope of exemption*

The Authority is proposing to expand the scope of section 11.14 of the Regulation to include qualification provisions, under the same conditions as those currently in effect with respect to registration as a dealer or adviser. Consequently, the proposed amendments extend this exemption to any person authorized to create or market a derivative or authorized to carry on similar activities under the legislation applicable in a jurisdiction outside Québec where its head office or principal place of business is located.

*d) Sections 11.36 and 13.2 and Schedule B: Amendments related to the sending of information to the Authority and to clients by qualified persons or persons applying for qualification*

The Authority is proposing to amend the list of documents that a qualified person or a person applying for qualification must send to the Authority, in particular by adding documents regarding the person's business activities.

The Authority is also proposing to require qualified persons to inform their clients of the percentage of client accounts that were profitable in the previous fiscal year.

### **Amendments to Policy Statement respecting Accredited Counterparties**

The Authority is proposing to amend the Policy Statement respecting Accredited Counterparties to reflect the proposed changes to new section 1.1 of the Regulation.

### **Request for Comment**

Comments regarding the above may be provided in hard copy or electronic form by **February 13, 2016** to the following:

M<sup>e</sup> Anne-Marie Beaudoin  
Corporate Secretary  
Autorité des marchés financiers  
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Fax: 514-864-6381  
E-mail: [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

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

### **Additional Information**

Additional information is available from the following:

Lise Estelle Brault  
Director, Derivatives  
Autorité des marchés financiers  
514-395-0337, ext.4481  
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**January 14, 2016**