

Draft Regulation

Derivatives Act

(chapter I-14.01, s. 175, 1st par., pars. (2), (3), (12), (13), (14), (16), (20), (20.1), (20.2), (25), (26) and (27))

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 “Derivatives Act”), the Regulation to amend the Derivatives Regulation (the “Draft 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.

The text of the Draft Regulation is also available under “Public consultations” on the Authority’s website at www.lautorite.qc.ca.

Background

Regulation 93-101 respecting Derivatives: Business Conduct, approved by Order number I-14.01-2023-21 of the Minister of Finance dated December 5, 2023, (2023) 51 G.O. II [(2023) vol. 20, No. 50, Bulletin of the Authority, section 6.2] (“Regulation 93-101”), will come into force on September 28, 2024. It will regulate the conduct of derivatives firms, including requirements relating to the following:

- Fair dealing
- Conflicts of interest
- Know your derivatives party (KYDP)
- Suitability
- Pre-transaction disclosure
- Reporting of non-compliance
- Compliance
- Senior management duties
- Recordkeeping
- Treatment of derivative party assets

Many of the requirements in Regulation 93-101 are similar to existing market conduct requirements applicable to registered dealers, advisers and representatives under Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations (chapter V-1.1, r. 10) (“Regulation 31-103”) but have been modified to reflect the different nature of derivatives markets.

In Québec, the Derivatives Regulation (chapter I-14.01, r. 1) includes requirements regulating the conduct of registered dealers, advisers and representatives under sections 54 and 56 of the *Derivatives Act* (“Registrants”). Some of these requirements are currently enshrined in section 11.1 of the Derivatives Regulation, which incorporates by reference several provisions of Regulation 31-103.

The Draft Regulation amends the Derivatives Regulation to avoid overlap between the provisions of Regulation 31-103, to which it makes reference, and Regulation 93-101, when the latter comes into force.

Description of proposed amendments

Section 11.1 of the Derivatives Regulation would be amended to apply to Registrants only in respect of their derivatives activities to which Regulation 93-101 does not apply. Furthermore, it proposes deleting certain references to Regulation 31-103 from the section that are superfluous owing to the fact that the same requirements are already covered by other provisions of the Derivatives Regulation. The goal is to preserve the status quo as regards the conduct requirements applicable to Registrants in respect of their derivatives activities to which Regulation 93-101 does not apply.

The Derivatives Regulation would also be amended to add a new section 11.1.1 that would apply to Registrants only in respect of their derivatives activities to which Regulation 93-101 applies. Only references to provisions of Regulation 31-103 whose substance will not be covered by Regulation 93-101 would appear in the new section.

Request for comments

Comments regarding the above may be made in writing by **June 25, 2024**, to the following:

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Corporate Secretary and Executive Director, Legal Affairs
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Unless otherwise noted, comments will be posted on the Authority's website at www.lautorite.qc.ca. Please do not include personal information directly in comments to be published and state on whose behalf you are making the submission.

Further information

Further information is available from:

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