

CSA Staff Notice 95-301

Margin and Collateral Requirements for Non-Centrally Cleared Derivatives

August 22, 2019

Introduction

This notice provides an update on work being done by the Canadian Securities Administrators (CSA or we) on the implementation of margin and collateral requirements relating to over-the-counter derivatives that are not centrally cleared.

Background

Subsequent to the 2008 financial crisis, the G20 leaders agreed on reforms to the way that OTC derivatives are regulated. One element of these reforms, agreed to at the Cannes Summit held in November 2011, was the development of mandatory margin and collateral requirements for non-centrally cleared derivatives. In response to this decision, the Basel Committee on Banking Supervision and the Board of the International Organization of Securities Commissions formed a working group (the **WGMR**) to develop minimum standards which were published in September, 2013. A revised version of the WGMR's standards was published in March 2015.

The WGMR's standards provide a timeline for phasing in the margin and collateral requirements. Under the timeline requirements, the largest covered entities, those with an aggregate month-end notional amount of non-centrally cleared derivatives in excess of a € 3 trillion threshold, were phased in from September 1, 2016. The requirement was then implemented, in stages, over several years for the covered entities with progressively smaller thresholds. WGMR proposes that covered entities with an aggregate month-end notional amount of non-centrally cleared derivatives in excess of an € 8 billion threshold will be phased in from September 1, 2021¹.

In response to the WGMR's standards, on July 7, 2016, the CSA published CSA Consultation Paper 95-401 – *Margin and Collateral Requirements for Non-Centrally Cleared Derivatives* for the purpose of soliciting public comment on policy recommendations about proposed minimum margin and collateral requirements for non-centrally cleared derivatives that are consistent with the WGMR's standards.

In June 2017, the Office of the Superintendent of Financial Institutions (**OSFI**) published Guideline E-22 - Margin Requirements for Non-Centrally Cleared Derivatives. This guideline

¹ The International Organization of Securities Commissions (IOSCO) and the Basel Committee on Banking Supervision (BCBS) published an updated version of the policy framework for margin requirements for non-centrally cleared derivatives that extended the implementation period on July 23, 2019. See the updated framework at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD635.pdf>.

applies to federally regulated financial institutions.²

In recent months representatives of key global market participants published documents that raise issues relating to the implementation of margin requirements for non-centrally cleared derivatives.³

Plan for Implementation of Margin and Collateral Requirements for Non-centrally Cleared Derivatives

The CSA has decided that it will delay the implementation of mandatory margin and collateral requirements for non-centrally cleared derivatives.

After completing a review of derivatives trade data, the CSA does not believe that such a delay will result in increased systemic risk to Canadian financial markets or participants. The CSA will implement a harmonized process to monitor Canada's derivatives markets and the positions of participants. We will also monitor international developments. The monitoring will inform our decisions as to the implementation of margin and collateral requirements for non-centrally cleared derivatives.

Questions

Please refer your questions to any of:

Lise Estelle Brault
Co-Chair, CSA Derivatives Committee
Senior Director, Fintech, Innovation and
Derivatives
Autorité des marchés financiers
514 395-0337, ext. 4481
lise-estelle.brault@lautorite.qc.ca

Carissa Browning
Legal Counsel
Alberta Securities Commission
403 355-9047
carissa.browning@asc.ca

Kevin Fine
Co-Chair, CSA Derivatives Committee
Director, Derivatives Branch
Ontario Securities Commission
416 593-8109
kfine@osc.gov.on.ca

Michael Brady
Manager, Derivatives
British Columbia Securities Commission
604 899-6561
mbrady@bcsc.bc.ca

² Under OSFI's guideline, federally-regulated financial institution refers to banks, foreign bank branches, bank holding companies, trust and loan companies, cooperative credit associations, cooperative retail associations, life insurance companies, property and casualty insurance companies and insurance holding companies.

³ For example, see the white paper co-published by the International Swaps and Derivatives Association in July, 2018 [<https://www.isda.org/a/D6fEE/ISDA-SIFMA-Initial-Margin-Phase-in-White-Paper-July-2018.pdf>] and the Joint Trade Association Letter on Margin Requirements for Non-Centrally Cleared Derivatives: Issues for 2019 and 2020 dated September 12, 2018 [<https://www.isda.org/a/5evEE/Initial-Margin-Phase-In-Implementation-Joint-Trade-Association-Comments.pdf>].

Paula White
Deputy Director, Compliance and
Oversight
Manitoba Securities Commission
204 945-5195
paula.white@gov.mb.ca

Abel Lazarus
Director, Corporate Finance
Nova Scotia Securities Commission
902 424-6859
abel.lazarus@novascotia.ca

Wendy Morgan
Deputy Director, Policy
Financial and Consumer Services
Commission (New Brunswick)
506 643-7202
wendy.morgan@fcnb.ca

Nathanial Day
Legal Counsel
Financial and Consumer Affairs Authority
of Saskatchewan
306 787-5867
nathanial.day@gov.sk.ca