

Multilateral CSA Staff Notice 96-301
Matters related to the coming into force of
Multilateral Instrument 91-101 Derivatives: Product Determination
and
Multilateral Instrument 96-101 Trade Repositories and Derivatives
Data Reporting

June 17, 2016

Introduction

The securities regulatory authorities (each an **Authority** and collectively the **Authorities** or **we**) in Alberta, New Brunswick, Nova Scotia and Saskatchewan (together with British Columbia, Newfoundland and Labrador, the Northwest Territories, Nunavut, Prince Edward Island and Yukon, the **Participating Jurisdictions**) are issuing harmonized discretionary relief (in each jurisdiction, **Blanket Order 96-501**) from certain requirements in Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting* (the **TR Rule**). The respective local Blanket Order 96-501 may be found on the website of the local Authority.

While the securities regulatory authorities in British Columbia, Newfoundland and Labrador, the Northwest Territories, Nunavut, Prince Edward Island and Yukon are not participating in this notice, staff in each of those jurisdictions anticipate that similar local relief will be issued before trade reporting obligations take effect.

We are also taking this opportunity to remind market participants that trade reporting obligations under the TR Rule begin **July 29, 2016** and to draw market participants' attention to certain steps that should be undertaken to facilitate timely compliance with TR Rule.

Background

The Participating Jurisdictions announced the implementation of the TR Rule and Multilateral Instrument 91-101 *Derivatives: Product Determination* (the **Product Determination Rule** and, together with the TR Rule, the **Instruments**) on January 22, 2016, with:

- an effective date of May 1, 2016, subject in certain participating jurisdictions to Ministerial approval and legislative amendments, and
- a reporting start date for new transactions of July 29, 2016 for derivatives dealers and clearing agencies and of November 1, 2016 for all other reporting counterparties.

In February 2016, we published for comment proposed amendments to the TR Rule.¹ Subject to applicable approvals, we anticipate announcing implementation of amendments, substantially in the form published for comment, to the Instruments in the near term.

Staff of the each of the Participating Jurisdictions have worked together in developing harmonized relief in the form of Blanket Order 96-501. Subject to obtaining all necessary Ministerial approvals, the Instruments are targeted to come into force in each Participating Jurisdiction on July 29, 2016, i.e., before mandatory trade reporting begins for clearing agencies and derivatives dealers.

Blanket Order 96-501

In each jurisdiction, Blanket Order 96-501 exempts reporting counterparties, in limited circumstances, from certain requirements under the TR Rule. Blanket Order 96-501 is intended to address situations where foreign laws prevent or hinder reporting, and situations where the reporting counterparty to a derivative has been unable to obtain certain information from its counterparty to enable the reporting counterparty to fulfil its reporting obligations under the TR Rule. The exemptions in Blanket Order 96-501 are available to all reporting counterparties under the TR Rule.

Legal entity identifiers

The TR Rule requires a reporting counterparty to report a legal entity identifier (**LEI**) for itself and the non-reporting counterparty. The Proposed Amendments will require each person or company, other than an individual, that is eligible to receive an LEI as determined by the Global LEI System, to obtain an LEI before entering into a derivatives transaction that is required to be reported under the TR Rule. Information on how to obtain an LEI is located on the website of the Regulatory Oversight Committee for LEIs at <https://www.leiroc.org/lei/how.htm>.

While Blanket Order 96-501 exempts a reporting counterparty from the requirement to report the LEI of the non-reporting counterparty where the reporting counterparty is not able to obtain the LEI, we expect that this relief will be relied upon only in rare circumstances. We expect that every counterparty to a reportable derivative, other than an individual, will obtain an LEI and provide it to the reporting counterparty for the derivative. Further, we expect that a reporting counterparty will require the LEI as part of the documentation establishing a trading relationship with each new counterparty.

¹ See CSA Multilateral Notice and Request for Comments dated February 16, 2016, available on the websites of the Alberta Securities Commission, the Financial and Consumer Services Commission (New Brunswick), the Financial and Consumer Affairs Authority of Saskatchewan and the Nova Scotia Securities Commission. See also BC Notice 2016/01 - Notice and Request for Comments dated March 24, 2016, available on the website of the British Columbia Securities Commission.

Onboarding to a recognized trade repository

In anticipation of the commencement of trade reporting, the Participating Jurisdictions are currently reviewing applications for recognition from trade repositories. The Participating Jurisdictions anticipate that any decision to grant recognition will be made public on the Participating Jurisdictions' respective websites in early- to mid-July, 2016.

The onboarding process with a recognized trade repository may take several weeks to complete. Market participants that are clearing agencies or derivatives dealers are encouraged to begin planning for the onboarding process early to ensure they are in a position to comply with the trade reporting obligations that commence July 29, 2016.

For guidance on who would be considered a derivatives dealer for the purpose of assigning the trade reporting obligations under the TR Rule, please refer to the discussion under subsection 1(3) in Companion Policy 96-101 *Trade Repositories and Derivatives Data Reporting*.

Questions

Questions with respect to this Notice or Blanket Order 96-501 may be referred to:

Martin McGregor
Legal Counsel
Alberta Securities Commission
Tel: 403-355-2804
Email: martin.mcgregor@asc.ca

Wendy Morgan
Senior Legal Counsel, Securities
Financial and Consumer Services Commission (New Brunswick)
Tel: 506-643-7202
Email: wendy.morgan@fcnb.ca

Abel Lazarus
Senior Securities Analyst
Nova Scotia Securities Commission
Tel: 902-424-6859
Email: abel.lazarus@novascotia.ca

Liz Kutarna
Deputy Director, Capital Markets, Securities Division
Financial and Consumer Affairs Authority of Saskatchewan
Tel: 306-787-5871
Email: liz.kutarna@gov.sk.ca