

IN THE MATTER OF THE *SECURITIES ACT*, S.N.B. 2004, C. S-5.5 (the “*Act*”)

AND

IN THE MATTER OF

*EXEMPTING CERTAIN COUNTERPARTIES FROM MANDATORY CLEARING, 2018*

Blanket Order 94-501 (as amended and restated)

Section 208

**WHEREAS** the Executive Director of Securities (**Executive Director**) issued a Blanket Order effective 4 October 2017 on behalf of the Financial and Consumer Services Commission (**Commission**), which provided exemptions for certain counterparties from mandatory clearing requirements in National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives (MI 94-101)* (**Previous Blanket Order**);

**AND WHEREAS** the exemptions in the Previous Blanket Order were available in respect of a transaction in a mandatory clearable derivative that occurred on or before 20 August 2018;

**AND WHEREAS** the Executive Director has determined that it is not prejudicial to the public interest to issue a blanket order that amends and restates the Previous Blanket Order;

**IT IS ORDERED** pursuant to section 208(1) of the *Act* that the Previous Blanket Order be amended and restated as follows:

#### **Definitions**

1. Terms defined in the *Act*, in National Instrument 14-101 *Definitions* or in NI 94-101 have the same meaning in this Blanket Order.

#### **Background**

2. Section 3(1) of NI 94-101 requires a local counterparty to a transaction in a mandatory clearable derivative to submit, or cause to be submitted, the mandatory clearable derivative to a regulated clearing agency that offers clearing services in respect of the mandatory clearable derivative (the **Clearing Requirement**), if one or more of the following applies to each counterparty:
  - (a) the counterparty
    - (i) is a participant of a regulated clearing agency that offers clearing services in respect of the mandatory clearable derivative, and

- (ii) subscribes to clearing services for the class of derivatives to which the mandatory clearable derivative belongs;
  - (b) effective 4 October 2017, the counterparty
    - (i) is, at the date of the transaction in the mandatory clearable derivative, an affiliated entity of a participant referred to in paragraph (a), and
    - (ii) has had, at any time after the date on which NI 94-101 comes into force, a month-end gross notional amount under all outstanding derivatives exceeding \$1 000 000 000 excluding derivatives to which section 7(1)(a) of NI 94-101 applies;
  - (c) effective 4 October 2017, the counterparty
    - (i) is, at the date of the transaction in the mandatory clearable derivative, a local counterparty in any jurisdiction of Canada, other than a counterparty to which paragraph (b) applies, and
    - (ii) has had, at any time after the date on which NI 94-101 comes into force, a month-end gross notional amount under all outstanding derivatives, combined with each affiliated entity that is a local counterparty in any jurisdiction of Canada, exceeding \$500 000 000 000 excluding derivatives to which section 7(1)(a) of NI 94-101 applies.
3. On 12 October 2017, the Commission published for comment proposed amendments to NI 94-101 (the **Proposed Amendments**). The Commission is considering the comments received on the Proposed Amendments. If implemented, the Proposed Amendments would change the scope of application of the Clearing Requirement so that certain counterparties will not be subject to the Clearing Requirement under sections 3(1)(b) and (c) of NI 94-101.
4. Some counterparties that would have been subject to the Clearing Requirement effective 4 October 2017 may not be subject to the Clearing Requirement as a result of the Proposed Amendments. Therefore, exemptive relief is required.

#### **Order**

5. The Commission has delegated to the Executive Director the Commission's power under section 208 of the *Act* to exempt, in whole or in part, a person or class of persons from any requirement of any National Instrument, Multilateral Instrument or Local Instrument, subject to such terms and conditions considered appropriate.
6. Considering that it would not be prejudicial to the public interest to do so, the Executive Director orders under section 208(1) of the *Act* that a counterparty, to which section 3(1)(a) of NI 94-101 does not apply and that is required under section 3(1)(b) or (c) of NI 94-101 to clear a mandatory clearable derivative is exempt from that requirement.

7. The exemption under paragraph 6 of this Blanket Order is available in respect of a transaction in a mandatory clearable derivative that occurs on or before the earlier of
- (a) the date on which this Blanket Order is revoked, and
  - (b) the date on which amendments that change the scope of the application of the Clearing Requirement under paragraphs 3(1)(b) or (c) of NI 94-101 come into effect.

This Blanket Order takes effect on 20 August 2018.

“Original signed by”

---

Kevin Hoyt  
Executive Director