

Financial and Consumer Services Commission of New Brunswick

Coordinated Blanket Order 96-933

Citation: Temporary Exemptions from Derivatives Data Reporting Requirements relating to the Unique Product Identifier for Commodity Derivatives

(Order under section 208 of the Securities Act)

Date: February 20, 2025

Definitions

1. Subject to paragraph 2, terms defined in the *Securities Act* (New Brunswick) (the **Act**), National Instrument 14-101 *Definitions*, and Multilateral Instrument 96-101 *Derivatives: Trade Reporting*, as amended¹ effective July 25, 2025 (the **TR Rule**) have the same meaning in this Order.
2. In this Order, “commodity derivative” means a derivative for which an underlying interest is a commodity other than currency.

Background

Unique Product Identifiers under the TR Rule

3. Section 30(2) of the TR Rule requires a recognized trade repository and a reporting counterparty to identify each type of derivative, in all recordkeeping and reporting that is required under the TR Rule, by means of a single unique product identifier. Section 30(1) of the TR Rule defines “unique product identifier” as “a code that uniquely identifies a type of derivative and is assigned by the Derivatives Service Bureau” (a **DSB UPI**).
4. Section 27(1)(b) of the TR Rule requires a reporting counterparty to include the unique product identifier in every required report of creation data.
5. Section 36.1(3)(a) of the TR Rule requires references to “reporting counterparty” in the TR Rule to be read as referring to a “facility for trading derivatives” in certain circumstances. As result, a facility for trading derivatives may also be required to identify a type of derivative by means of a DSB UPI in all recordkeeping and all reporting required under the TR Rule.
6. In accordance with sections 27(1)(b) and 30(2) of the TR Rule, a reporting counterparty, and a facility for trading derivatives in certain circumstances as set out in section 36.1, are required to report a DSB UPI under Data Element Number 117 of Appendix A to the TR Rule.
7. Under section 26(9) of the TR Rule, a reporting counterparty must ensure that all reported derivatives data relating to a derivative satisfies the validation procedure of the recognized trade repository to which the derivative is reported. Section 22.2 of the TR Rule requires a recognized

¹ <https://fcnb.ca/sites/default/files/2024-07/2024-07-25-CSAN-96-101-E.pdf>

trade repository to establish, implement, and maintain a validation procedure. A validation procedure includes validating that a reporting counterparty or a facility for trading derivatives has reported a DSB UPI under Data Element Number 117 of Appendix A to the TR Rule.

Purpose of the DSB UPI and International Context

8. The purpose of the DSB UPI requirement under the TR Rule is to identify each type of derivative consistently across jurisdictions that are members of the Financial Stability Board, as provided under UPI Technical Guidance published by the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions in September 2017.² The DSB UPI requirement will provide the Financial and Consumer Services Commission of New Brunswick (the **Commission**) with important capabilities to link and aggregate data to support its mandate.
9. Capital market regulators globally have required, or are in the process of requiring, the reporting of a DSB UPI through revisions to their derivatives data reporting rules. A DSB UPI has been required in respect of all asset classes in the European Union since April 29, 2024, the United Kingdom since September 30, 2024, and Australia and Singapore since October 21, 2024. It is expected to be required in Japan beginning April 7, 2025 and Hong Kong beginning September 29, 2025.³
10. In the United States, the Commodity Futures Trading Commission (**CFTC**) has required a DSB UPI in respect of the credit, equity, foreign exchange, and interest rate asset classes since January 29, 2024.⁴ The CFTC has not published an implementation date for the DSB UPI in respect of the commodity asset class.

² Available at https://www.leiroc.org/publications/gls/roc_20170901.pdf.

³ Regulation (EU) 2022/1855 of the European Parliament and of the Council, *Eur-Lex*, available at:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R1855>

UK Financial Conduct Authority, *Policy Statement PS23/2*, available at:

<https://www.fca.org.uk/publication/policy/ps23-2.pdf>

Australia Securities & Investments Commission Derivative Transaction Rules (Reporting) 2024, available at:

<https://www.legislation.gov.au/F2022L01706/latest/text>

Singapore Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013, *Singapore Statutes Online*, available at:

<https://sso.agc.gov.sg/SL/SFA2001-S668-2013?Provids=P1II-#pr9->

Japan Financial Services Agency, *Consultation Paper on Securities*, available at:

<https://www.fsa.go.jp/news/r5/shouken/20231121/03.pdf>

Hong Kong Securities and Futures Commission, *Joint further consultation on enhancements to the OTC derivatives reporting regime for Hong Kong to mandate – (1) the use of Unique Transaction Identifier, (2) the use of Unique Product Identifier, and (3) the reporting of Critical Data Elements and Joint consultation conclusions on revising the list of designated jurisdictions for the masking relief*, available at:

<https://apps.sfc.hk/edistributionWeb/gateway/EN/consultation/market-infrastructure-and-trading/doc?refNo=24CP1>

⁴ *Order Designating the Unique Product Identifier and Product Classification System To Be Used in Recordkeeping and Swap Data Reporting*, 88 FR 11790, available at:

<https://www.federalregister.gov/documents/2023/02/24/2023-03661/order-designating-the-unique-product-identifier-and-product-classification-system-to-be-used-in>

Delay in implementation of the DSB UPI for Commodity Derivatives

11. Staff of the Canadian Securities Administrators (**CSA**) have received numerous requests from recognized trade repositories, derivatives industry groups, and reporting counterparties to delay implementation of the DSB UPI for commodity derivatives because the CFTC has not yet implemented the DSB UPI for commodity derivatives.
12. All recognized trade repositories in New Brunswick are provisionally registered with the CFTC. The Commission understands that many derivatives are required to be reported under both CFTC regulations and CSA rules, and many reporting counterparties report under both CFTC regulations and CSA rules. Recognized trade repositories may use data submission specifications for their participants that align with both CFTC regulations and CSA rules, and reporting counterparties may use systems that report the same data elements under both CFTC regulations and CSA rules.
13. Industry participants have advised CSA staff that transitioning from their current reporting of a code based on the taxonomy of the product, which code is assigned or adopted by the recognized trade repository to which the transaction is reported (a **TR UPI**) to a DSB UPI in respect of commodity derivatives is complex, as it necessitates, among other things, mapping each type of commodity that underlies each derivative to a DSB UPI.
14. The Commission has delegated to the Executive Director of Securities 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.

Order

Identification, Recordkeeping and Reporting

15. Considering that it would not be prejudicial to the public interest to do so, the Executive Director of Securities orders under section 208 of the *Act* that a reporting counterparty and a facility for trading derivatives are exempt from sections 27(1)(b) and 30(2) of the TR Rule and Data Element Number 117 of Appendix A to the TR Rule, and a recognized trade repository is exempt from section 30(2) of the TR Rule, in relation to a derivative, provided that:
 - (a) the derivative is a commodity derivative;
 - (b) the relevant reporting counterparty, facility for trading derivatives, or recognized trade repository identifies each type of derivative in all recordkeeping and reporting that is required under the TR Rule by means of a TR UPI.

Validation Procedure

16. Considering that it would not be prejudicial to the public interest to do so, the Executive Director of Securities orders under section 208 of the *Act* that a recognized trade repository is exempt from the requirements under section 22.2 of the TR Rule in respect of the application of its validation procedure, in relation to a derivative, to Data Element Number 117 of Appendix A to the TR Rule, provided that:

- (a) the derivative is a commodity derivative;
- (b) the validation procedure is designed to validate that derivatives data reported under Data Element Number 117 of Appendix A to the TR Rule satisfies the TR UPI specifications;
- (c) the recognized trade repository complies with the requirements under section 22.2 of the TR Rule in respect of the application of its validation procedure.

Effective Date

17. This Order comes into effect on July 25, 2025.

For the Commission:

Original signed by _____

To-Linh Huynh

Executive Director of Securities