**Office of the Yukon Superintendent of Securities**
**Ministerial Order Enacting Rule: 2016/05**
**Amendment effective in Yukon: September 30, 2016**

**Amendments to**
**Companion Policy 96-101** *Trade Repositories and Derivatives Data Reporting*

1.  *Companion Policy 96-101 Trade Repositories and Derivatives Data Reporting is changed by this Instrument.*

2.  *The first bullet in subsection 1(4) is replaced with the following:*

    - a change to the expiry or termination date for the derivative;**.**

3.  *The second paragraph in subsection 1(5) is replaced with the following:*

    A material amendment to a derivative is not a "transaction" and is required to be reported as a life-cycle event under section 32. Similarly, a termination is not a "transaction"; the expiry or termination of a derivative other than in accordance with the terms of the contract is required to be reported as a life-cycle event under section 32.**.**

4.  *The last paragraph in subsection 26(3) is replaced with the following:*

    In each instance, the counterparties can benefit from substituted compliance where the data relating to the derivative has been reported to a recognized trade repository pursuant to the law of a jurisdiction of Canada other than the local jurisdiction or of a foreign jurisdiction listed in Appendix B, provided that the additional conditions set out in paragraph 26(3)(c) are satisfied. The data relating to the derivative that is reported to a recognized trade repository under subparagraph 26(3)(iv) may be provided to the securities regulatory authority under paragraph (c) in the same form as required to be reported under the applicable derivative transaction reporting requirements listed in paragraph (b).**.**

5.  *Subsection 26(4) is replaced with the following:*

    **(4)** Subsection 26(4) requires that all derivatives data reported for a given derivative be reported to the same recognized trade repository or, with respect to a derivative reported under subsection 26(2), to the local securities regulatory authority.

    The purpose of subsection 26(4) is to ensure the securities regulatory authority has access to all derivatives data reported to a recognized trade repository for a particular derivative (from the initial report to the designated trade repository through all life-cycle event reports to termination or maturity) from a single recognized trade repository. It is not intended to restrict counterparties' ability to report to multiple trade repositories nor to begin reporting derivatives data relating to a particular derivative to a different recognized trade repository. We expect that, if a reporting counterparty begins reporting derivatives data relating to a particular derivative in respect of which contractual

obligations remain outstanding to a different recognized trade repository, all derivatives data relevant to the derivative will be reported to the successor recognized trade repository. We expect that trade repositories would cooperate with reporting counterparties to facilitate the provision of data to the successor trade repository.

For a bilateral derivative that is cleared by a clearing agency (novation), the clearing agency must report all derivatives data to the recognized trade repository to which the original bilateral derivative was reported.**.**

**6.** *Subsection 26(6) is replaced with the following:*

**(6)** We interpret the requirement in subsection 26(6), to report errors or omissions in derivatives data "as soon as practicable" after it is discovered, to mean upon discovery and in any case no later than the end of the business day following the day on which the error or omission is discovered.**.**

**7.** *Subsection 26(7) is replaced with the following:*

**(7)** Under subsection 26(7), where a local counterparty that is not a reporting counterparty discovers an error or omission in respect of derivatives data that has been reported to a recognized trade repository, such local counterparty has an obligation to report the error or omission to the reporting counterparty for the derivative. Once an error or omission is reported by the local counterparty to the reporting counterparty, the reporting counterparty then has an obligation under subsection 26(6) to report the error or omission to the recognized trade repository or to the securities regulatory authority in accordance with subsection 26(2). We interpret the requirement in subsection 26(7) to notify the reporting counterparty of errors or omissions in derivatives data to mean upon discovery and in any case no later than the end of the business day following the day on which the error or omission is discovered.**.**

**8.** *Section 28 is replaced with the following:*

**28.** The Global LEI System is a G20 endorsed initiative[6] for uniquely identifying parties to financial transactions, designed and implemented under the direction of the LEI ROC, a governance body endorsed by the G20. The Global LEI System serves as a public-good utility responsible for overseeing the issuance of legal entity identifiers globally, including to counterparties who enter into derivatives or that are involved in a derivatives transaction.

**(1)** We are of the view that reporting counterparties will take steps to ensure that the non-reporting counterparty provides its LEI to facilitate reporting under the Instrument. If the reporting counterparty cannot, for any reason, obtain the LEI from the non-reporting counterparty, publicly accessible resources may be available for obtaining that information.

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[6] For more information, see FSB Report *A Global Legal Entity Identifier for Financial Markets*, June 8, 2012, online: Financial Stability Board http://www.financialstabilityboard.org/policy_area/lei/.

**(2)** Paragraph 28(2)(a) requires each local counterparty to a derivative that is required to be reported under the Instrument, other than an individual, to acquire an LEI, regardless of whether the local counterparty is the reporting counterparty.

**(3)** Some counterparties to a reportable derivative may not be eligible to receive an LEI. In such cases, the reporting counterparty must use an alternate identifier to identify each counterparty that is ineligible to receive an LEI, or is an individual, when reporting derivatives data to a recognized trade repository.**.**

9.     *Section 29 is changed by replacing the word* "*bi-lateral*" *with the word* "*bilateral*".

10.    *Subsection 39(3) is deleted.*

11.    *The Policy is changed by adding the following section:*

**Derivative between affiliated entities**

**41.1.** Section 41.1 provides an exclusion from the reporting requirement for derivatives between two affiliated entities. The exclusion is not available to a person or company that is a derivatives dealer or a clearing agency, or is an affiliated entity of a derivatives dealer or a clearing agency.**.**

12.    *The Policy is changed by adding the following section:*

**Reporting by a local counterparty that ceases to qualify for an exclusion**

**42.1. (1)** Subsection 42.1(1) provides that a derivative that was excluded under section 40 from the reporting requirements under the Instrument, but which no longer meets a condition in section 40, must be reported in accordance with the Instrument.

**(2)–(6)** Subsections 42.1(2)–(6) are intended to provide a person or company that has previously benefitted from an exclusion from trade reporting under section 40, and has not previously acted as a reporting counterparty under the Instrument or a similar instrument in another jurisdiction of Canada, with a reasonable transition period to allow them to develop the resources and implement policies and procedures necessary to meet the requirements applicable to a reporting counterparty.**.**

13.    *Subsection 45(4) is replaced with the following:*

**Effective date**

**45. (4)** The requirement under subsection 39(3) for a recognized trade repository to make transaction-level data reports available to the public does not apply until January 16, 2017.**.**

*14.*     *The Policy is changed by adding the following immediately following section 45:*

**APPENDIX C**

**Instructions**

**1.** The instructions provided at item 1 of Appendix C describe the types of derivatives for which a recognized trade repository must make the data in the fields described in Table 1 available to the public.

The effect of item 1(b) is that a recognized trade repository is not required to make available to the public data that relates to a life-cycle event that does not contain new price information compared to the derivatives data initially reported for the transaction.

**Table 1**

Table 1 lists the data fields in which data must be made available to the public. Table 1 is a subset of the information that the trade repository is required to submit to the regulator and does not include all the fields required to be reported to a recognized trade repository in accordance with Appendix A. For example, valuation data fields are not required to be made available to the public under subsection 39(3) and in accordance with Appendix C.

**Table 2**

Only derivatives in the Asset Class and Underlying Asset Identifiers fields listed in Table 2 are subject to the requirement under subsection 39(3) of the Instrument that transaction-level data be made available to the public.

For further clarification, the identifiers listed in the column in Table 2 entitled Underlying Asset Identifier refer to the following:

"CAD-BA-CDOR" means all tenors of the Canadian Dollar Offered Rate (CDOR). CDOR is a financial benchmark for bankers' acceptances with a term to maturity of one year or less currently calculated and administered by Thomson Reuters.

"USD-LIBOR-BBA" means all tenors of the U.S. Dollar ICE LIBOR. ICE LIBOR is a benchmark currently administered by ICE Benchmark Administration and provides an indication of the average rate at which a contributor bank can obtain unsecured funding in the London interbank market for a given period, in a given currency.

"EUR-EURIBOR-Reuters" means all tenors of the Euro Interbank Offered Rate (Euribor). Euribor is a reference rate published by the European Banking Authority based on the average interest rates at which selected European prime banks borrow funds from one another.

"GBP-LIBOR-BBA" means all tenors of the GBP Pound Sterling ICE LIBOR. ICE LIBOR is a benchmark currently administered by ICE Benchmark Administration and provides an indication of the average rate at which a contributor bank can obtain unsecured funding in the London interbank market for a given period, in a given currency.

"All Indexes" means any statistical measure of a group of assets that is administered by an organization that is not affiliated with the counterparties and whose value and calculation methodologies are publicly available. Examples of indexes that would satisfy this meaning are underlying assets that would be included in ISDA's Unique Product Identifier Taxonomy[9] under (i) the categories of Index and Index Tranche for credit products and (ii) the Single Index category for equity products.

**Exclusions**

**2.** Item 2 of Appendix C specifies certain types of derivatives that are excluded from the requirement under subsection 39(3) of the Instrument that transaction-level data be made available to the public. An example of a derivative excluded under item 2(a) is a cross-currency swap. The type of derivative excluded under item 2(b) results from portfolio compression activity which occurs whenever a derivative is amended or entered into in order to reduce the gross notional amount of an outstanding derivative or group of derivatives without impacting the net exposure. Item 2(c) excludes a derivative resulting from a novation on the part of a clearing agency when facilitating the clearing of a bilateral derivative. As a result of item 2(c), with respect to derivatives involving a recognized or exempt clearing agency, the timing under item 7 for making transaction-level data available to the public applies only to derivatives entered into by a clearing agency on its own behalf.

**Rounding of notional amount**

**3.** The rounding thresholds in Table 3 are to be applied to the notional amount of a derivative in the currency of the derivative. For example, the notional amount of a derivative denominated in United States dollars (USD) would be rounded and made available to the public in USD and not in the Canadian dollar (CAD) equivalent.

**Capping of notional amount**

**4.** Item 4 of Appendix C requires a recognized trade repository to compare the rounded notional amount of a derivative denominated in a non-CAD currency to the capped rounded notional amount in CAD that corresponds to the asset class and tenor of that derivative, each as set out in Table 4. Therefore, the recognized trade repository must convert the rounded notional amount in the non-CAD currency into CAD in order to determine whether it would exceed the capping threshold. The recognized trade repository must use a consistent and transparent methodology for converting to and from CAD for the purposes of comparing and publishing the capped notional amount.

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[9] ISDA's Unique Product Identifier Taxonomy can be found at www.isda.org.

For example, in order to compare the rounded notional amount of a derivative denominated in UK Pounds (GBP) to the thresholds in Table 4, the recognized trade repository must convert this amount to a CAD-equivalent amount. If the CAD-equivalent notional amount of the GBP denominated derivative exceeds the capping threshold, the recognized trade repository must make available to the public the capped rounded notional amount converted back into the currency of the derivative using a consistent and transparent methodology.

**6.** Item 6 of Appendix C requires a recognized trade repository to adjust the data in the Option premium field in a consistent and proportionate manner if the rounded notional amount of a derivative is greater than the applicable capped rounded notional amount, as set out in Table 4. The Option premium field adjustment should be proportionate to the size of the capped rounded notional amount compared to the rounded notional amount.

**Timing**

**7.** Item 7 of Appendix C sets out when a recognized trade repository must make the required information from Table 1 available to the public. The purpose of the public reporting delays is to ensure that counterparties have adequate time to enter into any offsetting derivative that may be necessary to hedge their positions. The time delay applies to all derivatives, regardless of size, that are subject to the requirement under subsection 39(3) of the Instrument that transaction-level data be made available to the public in accordance with Appendix C.**.**

15.    These changes become effective on September 30, 2016.