

PROVINCE OF BRITISH COLUMBIA

RULE OF THE BRITISH COLUMBIA SECURITIES COMMISSION

Securities Act

The British Columbia Securities Commission orders that,

- (a) effective April 12, 2022, National Instrument 94-101 Mandatory Central Counterparty Clearing of Derivatives, B.C. Reg. 129/2017, is amended as set out in the attached Schedule A, and
- (b) effective September 1, 2022, National Instrument 94-101 Mandatory Central Counterparty Clearing of Derivatives, B.C. Reg. 129/2017, is amended as set out in the attached Schedule B.

DEPOSITED
April 12, 2022
B.C. REG. 104/2022



April 12, 2022

Date

British Columbia Securities Commission

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Securities Act, R.S.B.C. 1996, c. 418, s. 184

Other: _____

SCHEDULE A

1. *National Instrument 94-101 Mandatory Central Counterparty Clearing of Derivatives, B.C. Reg. 129/2017, is amended by repealing Appendix A and Appendix B and substituting the following:*

APPENDIX A TO NATIONAL INSTRUMENT 94-101 MANDATORY CENTRAL COUNTERPARTY CLEARING OF DERIVATIVES

MANDATORY CLEARABLE DERIVATIVES (Subsection 1(1))

Interest Rate Swaps

| Type | Floating index | Settlement currency | Maturity | Settlement currency type | Optionality | Notional type |
|----------------|----------------|---------------------|---------------------|--------------------------|-------------|----------------------|
| Fixed-to-float | CDOR | CAD | 28 days to 30 years | Single currency | No | Constant or variable |
| Fixed-to-float | LIBOR | USD | 28 days to 50 years | Single currency | No | Constant or variable |
| Fixed-to-float | EURIBOR | EUR | 28 days to 50 years | Single currency | No | Constant or variable |
| Fixed-to-float | LIBOR | GBP | 28 days to 50 years | Single currency | No | Constant or variable |
| Basis | LIBOR | USD | 28 days to 50 years | Single currency | No | Constant or variable |
| Basis | EURIBOR | EUR | 28 days to 50 years | Single currency | No | Constant or variable |
| Basis | LIBOR | GBP | 28 days to 50 years | Single currency | No | Constant or variable |

| | | | | | | |
|----------------------|----------|-----|-------------------|-----------------|----|----------|
| Overnight index swap | CORRA | CAD | 7 days to 2 years | Single currency | No | Constant |
| Overnight index swap | FedFunds | USD | 7 days to 3 years | Single currency | No | Constant |
| Overnight index swap | EONIA | EUR | 7 days to 3 years | Single currency | No | Constant |
| Overnight index swap | SONIA | GBP | 7 days to 3 years | Single currency | No | Constant |

Forward Rate Agreements

| Type | Floating index | Settlement currency | Maturity | Settlement currency type | Optionality | Notional type |
|------------------------|----------------|---------------------|-------------------|--------------------------|-------------|---------------|
| Forward rate agreement | LIBOR | USD | 3 days to 3 years | Single currency | No | Constant |
| Forward rate agreement | EURIBOR | EUR | 3 days to 3 years | Single currency | No | Constant |
| Forward rate agreement | LIBOR | GBP | 3 days to 3 years | Single currency | No | Constant |

**APPENDIX B
TO
NATIONAL INSTRUMENT 94-101
MANDATORY CENTRAL COUNTERPARTY CLEARING OF DERIVATIVES**

**LAWS, REGULATIONS OR INSTRUMENTS OF FOREIGN JURISDICTIONS
APPLICABLE FOR SUBSTITUTED COMPLIANCE
(Subsection 3(5))**

| Foreign jurisdiction | Laws, regulations or instruments |
|----------------------|----------------------------------|
| | |

| | |
|--------------------------|--|
| European Union | Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, as amended by Regulation (EU) 2019/2099 |
| United Kingdom | <p>Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013</p> <p>The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020</p> <p>The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment etc., and Transitional Provision) (EU Exit) (No 2) Regulations 2019</p> <p>The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019</p> <p>The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018</p> <p>The Technical Standards (European Market Infrastructure Regulation) (EU Exit) (No 2) Instrument 2019</p> <p>The Technical Standards (European Market Infrastructure Regulation) (EU Exit) (No 3) Instrument 2019</p> |
| United States of America | Clearing Requirement and Related Rules, 17 CFR Part 50 |

SCHEDULE B

1. ***Section 1 of National Instrument 94-101 Mandatory Central Counterparty Clearing of Derivatives, B.C. Reg. 129/2017, is amended as set out in this Schedule.***
2. ***Section 1 is amended***

(a) in subsection (1), by adding the following definitions:

“investment fund” has the meaning ascribed to it in National Instrument 81-106 *Investment Fund Continuous Disclosure*;

“prudentially regulated entity” means a person or company that is subject to the laws of Canada, a jurisdiction of Canada or a foreign jurisdiction where the head office or principal place of business of an authorized foreign bank named in Schedule III of the *Bank Act* (Canada) is located, and a political subdivision of that foreign jurisdiction, relating to minimum capital requirements, financial soundness and risk management, or the guidelines of a regulatory authority of Canada or a jurisdiction of Canada relating to minimum capital requirements, financial soundness and risk management;

“reference period” means the period beginning on September 1 in a given year and ending on August 31 of the following year; ,

(b) by replacing subsection (2) with the following:

(2) In this Instrument, a person or company (the first party) is an affiliated entity of another person or company (the second party) if any of the following apply:

(a) the first party and the second party are consolidated in consolidated financial statements prepared in accordance with one of the following:

(i) IFRS;

(ii) generally accepted accounting principles in the United States of America;

(b) all of the following apply:

(i) the first party and the second party would have been, at the relevant time, required to be consolidated in consolidated financial statements prepared by the first party, the second party or another person or company, if the consolidated financial statements were prepared in accordance with the principles or standards referred to in subparagraph (a)(i) or (ii);

(ii) neither the first party’s nor the second party’s financial statements, nor the financial statements of the other person or company, were prepared in accordance with the principles or standards referred to in subparagraph (a)(i) or (ii);

(c) except in British Columbia and Quebec, the first party and the second party are both prudentially regulated entities and are consolidated for that purpose.

, and

(c) by repealing subsection (3).

3. Section 3 is amended

(a) by adding the following subsections:

(0.1) Despite subsection 1(2), an investment fund is not an affiliated entity of another person or company for the purposes of paragraphs (1)(b) and (c) of this section.

(0.2) Despite subsection 1(2), a person or company is not an affiliated entity of another person or company for the purposes of paragraphs (1)(b) and (c) of this section if the following apply:

(a) the person or company has, as its primary purpose, one of the following:

(i) financing a specific pool or pools of assets;

(ii) providing investors with exposure to a specific set of risks;

(iii) acquiring or investing in real estate or other physical assets;

(b) all the indebtedness incurred by the person or company whose primary purpose is one set out in subparagraph (a)(i) or (ii), including obligations owing to its counterparty to a derivative, are secured solely by the assets of that person or company. ,

(b) by replacing subparagraph (1)(b)(ii) with the following:

(ii) had, for the months of March, April and May preceding the reference period in which the transaction was executed, an average month-end gross notional amount under all outstanding derivatives exceeding \$1 000 000 000 excluding derivatives referred to in paragraph 7(1)(a); ,

(c) by amending subparagraph (1)(c)(i) by deleting “, other than a counterparty to which paragraph (b) applies, and”;

(d) by replacing subparagraph (1)(c)(ii) with the following:

(ii) had, during the previous 12-month period, 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 referred to in paragraph 7(1)(a), and

(e) by adding as subparagraph (1)(c)(iii):

(iii) had, for the months of March, April and May preceding the reference period in which the transaction was executed, an average month-end gross notional amount under all outstanding derivatives exceeding \$1 000 000 000 excluding derivatives referred to in paragraph 7(1)(a). , **and**

(f) in subsection (2), by deleting “(1)(b) or”, “(1)(b)(ii) or” and “, as applicable”.

4. Section 6 is amended by replacing “the following counterparties” with “a counterparty in respect of a mandatory clearable derivative if any counterparty to the mandatory clearable derivative is any of the following”.

5. Section 7 is amended

(a) in paragraph (1)(a), by deleting “and each of the counterparty and the affiliated entity are consolidated as part of the same audited consolidated financial statements prepared in accordance with “accounting principles” as defined in National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards”,

(b) by repealing paragraph (1)(b), and

(c) by repealing subsections (2) and (3).

6. Section 8 is amended

(a) by replacing paragraph (d) with the following:

(d) the multilateral portfolio compression exercise involved both counterparties to the mandatory clearable derivative; , **and**

(b) in paragraph (e), by replacing “is” with “was”.

7. Part 4 is repealed.

8. Form 94-101F1 Intragroup Exemption and Form 94-101F2 Derivatives Clearing Services are repealed.