



BC Notice 2025/02

**British Columbia Securities Commission Notice and Request for Comment -  
proposed amendments to National Instrument 94-101 *Mandatory Central  
Counterparty Clearing of Derivatives***

**Introduction**

The British Columbia Securities Commission (BCSC or we) is publishing for comment proposed amendments to National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives* (National Instrument 94-101). The proposed amendments to National Instrument 94-101 (the Proposed Amendments) aim to update the list of mandatory clearable derivatives to reflect the transition to a new interest rate benchmarks regime based on overnight risk-free interest rate benchmarks. Specifically, the Proposed Amendments reflect the cessation of certain inter-bank offered rates (IBORs) and the Canadian dollar offered rate (CDOR) interest rate benchmarks. The Proposed Amendments also contemplate adding credit default swaps (CDS) referencing certain indexes as mandatory clearable derivatives.

We are publishing this Notice and the Proposed Amendments for comment for 60 days. The comment period will expire on May 14, 2025. See below under “Request for Comments” section

The Proposed Amendments are the same as proposed amendments published by other members of the Canadian Securities Administrators (CSA) on September 19, 2024. BCSC staff anticipate working with staff from other CSA members to consider all comments received, including comments received pursuant to this publication and comments received in relation to the September 19, 2024 publication by other CSA members.

***Background***

National Instrument 94-101 came into force in 2017. Its main purposes are to reduce counterparty risk in the over-the-counter (OTC) derivatives market and increase financial stability by requiring certain counterparties to clear certain prescribed derivatives through a central clearing counterparty. An overview of this regime was provided in the CSA Notice of National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives and related Companion Policy*<sup>1</sup>.

National Instrument 94-101 is divided into two parts: (i) mandatory central counterparty clearing for prescribed derivatives by certain counterparties (including exemptions), and (ii) the determination of derivatives subject to mandatory central counterparty clearing. The list of mandatory clearable derivatives is included as Appendix A to National Instrument 94-101.

***Purpose of the Proposed Amendments***

***(1) Transition to risk-free interest rate benchmarks***

In 2012, allegations of manipulation of the London inter-bank offered rate (LIBOR) led to

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<sup>1</sup> Available at  
[https://www.bcsc.bc.ca/-/media/PWS/Resources/Securities\\_Law/HistPolicies/HistPolicy9/94101-CSA-Notice-January-19-2017.pdf?dt=20200314064652](https://www.bcsc.bc.ca/-/media/PWS/Resources/Securities_Law/HistPolicies/HistPolicy9/94101-CSA-Notice-January-19-2017.pdf?dt=20200314064652)

the loss of market confidence in the credibility and integrity of not only LIBOR, but also in financial benchmarks in general. In response to concerns regarding IBORs, the Financial Stability Board called for the cessation of the IBORs and the implementation of alternative reference rates. Publication of several IBORs has stopped and CDOR has ceased to be published on June 28, 2024.

As a result, the use of interest rate swaps referencing these benchmarks has significantly decreased and, in several cases, has disappeared.

Conversely, the adoption of risk-free interest rate benchmarks, as an alternative for certain IBORs and CDOR, has led to an increase in the liquidity of interest rate swaps referencing these benchmarks. Consequently, their systemic importance in financial markets globally and in Canada has increased.

Other international regulators have recognized the systemic importance of interest rate swaps referencing risk-free interest rate benchmarks and have required these derivatives to be mandatorily cleared in their respective jurisdictions.

The CSA contributes to and follows international regulatory proposals and legislative developments on an ongoing basis. The CSA has closely monitored the replacement of IBORs and CDOR with risk-free interest rate benchmarks and the impact of this development on Appendix A of National Instrument 94-101.

As a result, the list of derivatives required to be cleared needs to be updated to reflect the transition to risk-free interest rate benchmarks, such as the Canadian Overnight Repo Rate Average (CORRA) and Secured Overnight Financing Rate (SOFR). This update accounts for the shift in trading activity and increase in systemic importance. Consequently, the Proposed Amendments remove the requirement to clear certain classes of derivatives referencing certain IBORs or CDOR. These benchmarks are no longer of systemic importance, and they are replaced with overnight interest rate swaps (OIS) referencing risk-free interest rate benchmarks.

## (2) Addition of certain derivatives

In addition to updating the list of mandatory clearable derivatives to reflect the transition to risk-free interest rate benchmarks, the CSA has also reviewed the suitability of adding certain derivatives to be mandatorily cleared.

To determine which derivatives or classes of derivatives will be subject to the mandatory central counterparty clearing requirements, the CSA used most of the factors listed in Companion Policy 94-101 Mandatory Central Counterparty Clearing of Derivatives. Such factors include the following:

- the availability of the derivative to be cleared by a regulated clearing agency;
- the level of standardization of the derivative;
- the effect of central clearing of the derivative on the mitigation of systemic risk, taking into account the size of the market for the derivative and the available resources of the regulated clearing agency to clear the derivative;

- whether mandating the derivative or class of derivatives to be cleared would bring undue risk to regulated clearing agencies;
- the current liquidity in the market for the derivative or class of derivatives. Specifically, for the review period of April 2023 to September 2023 (the reference period), we analyzed monthly volume by assessing the number of transactions and the gross notional amount outstanding for certain derivatives, including the gross notional by maturity, and the percentage of outstanding notional cleared during each month of the reference period;
- with regards to a regulated clearing agency, the existence of capacity, operational expertise and resources; and
- international harmonization.

To conduct our analysis, we have relied upon data reported by market participants to recognized trade repositories in accordance with applicable regulations, as well as discussions with recognized central counterparties and requirements in foreign jurisdictions.

### **Summary of Proposed Amendments**

*(1) Amendments to reflect the cessation of certain IBORs and CDOR and the transition to risk-free interest rate benchmarks*

The Proposed Amendments will remove mandatory central counterparty clearing of certain interest rate swaps and forward rate agreements (FRA) referencing the following interest rate benchmarks listed in Appendix A of National Instrument 94-101:

- Canadian dollar (CAD) CDOR;
- United States dollar (USD) LIBOR;
- British pound (GBP) LIBOR;
- Euro (EUR) Euro Overnight Index Average (EONIA).

These derivatives are removed in each of the fixed-to-float swap, basis swap, OIS, and FRA classes, as applicable.

Furthermore, we propose to amend Appendix A of National Instrument 94-101 by adding mandatory central counterparty clearing of OIS referencing USD SOFR with a maturity between 7 days to 50 years and EUR Euro Short-Term Rate (€STR) with a maturity between 7 days to 3 years.

For reasons of liquidity and international harmonization, we are also proposing to expand the maturity of OIS referencing GBP SONIA subject to mandatory clearing to include maturity between 7 days to 50 years. Likewise, it is our view that given the significant liquidity for the reference period, we propose to expand the maturity of OIS referencing CAD CORRA to include maturity between 7 days to 30 years.

*(2) Addition of new classes of derivatives*

Based on the factors listed above, we concluded that the following classes of derivatives should be added to the list of mandatory clearable derivatives provided in Appendix A of National Instrument 94-101:

- Fixed-to-float interest rate swaps referencing Australian dollar (AUD) Bank Bill Swap rates (BBSW) with a maturity including 28 days to 30 years;
- CDS index CDX.NA.IG with tenors of 5 and 10 years (Series 46 and all subsequent Series);
- CDS index CDX.NA.HY with a tenor of 5 years (Series 46 and all subsequent Series);
- CDS index iraxx Europe with a tenor of 5 years (Series 45 and all subsequent Series).

We concluded that the addition of the above listed derivatives would be in the public interest.

#### **List of Annexes**

This notice contains the following annexes:

- Annex A – Proposed Amendments to National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives*.
- Annex B – Specific question of the CSA relating to the Proposed Amendments.

**Request for Comments**

We welcome your comments on the Proposed Amendments and also invite comments on the specific question set out in Annex B of this Notice. Please submit your comments in writing on or before May 14, 2025. Please send your comments by email. Your submissions should be provided in Microsoft Word format.

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of the written comments received during the comment period.

Please address your submission to:

British Columbia Securities Commission  
P.O. Box 10142, Pacific Centre  
1200-701 West Georgia Street  
Vancouver, British Columbia V7Y 1L2  
Email: [derivativesinbox@bcsc.bc.ca](mailto:derivativesinbox@bcsc.bc.ca)

**Questions**

Please refer your questions to:

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March 14, 2025

Brenda M. Leong  
Chair

**Annex A**

**PROPOSED AMENDMENTS TO  
NATIONAL INSTRUMENT 94-101 MANDATORY CENTRAL COUNTERPARTY  
CLEARING OF DERIVATIVES**

1. *National Instrument 94-101 Mandatory Central Counterparty Clearing of Derivatives is amended by this Instrument.*
2. *Appendix A is replaced with the following:*

**APPENDIX A**

**TO**

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

**MANDATORY CLEARABLE DERIVATIVES**

**(Subsection 1(1))**

**Interest rate swaps**

| <b>Fixed-to-float swaps</b> |                            |                     |                                 |                    |                      |
|-----------------------------|----------------------------|---------------------|---------------------------------|--------------------|----------------------|
| <b>Floating rate index</b>  | <b>Settlement currency</b> | <b>Maturity</b>     | <b>Settlement currency type</b> | <b>Optionality</b> | <b>Notional type</b> |
| EURIBOR                     | EUR                        | 28 days to 50 years | Single currency                 | No                 | Constant or variable |
| BBSW                        | AUD                        | 28 days to 30 years | Single currency                 | No                 | Constant or variable |

| <b>Basis swaps</b>         |                            |                     |                                 |                    |                      |
|----------------------------|----------------------------|---------------------|---------------------------------|--------------------|----------------------|
| <b>Floating rate index</b> | <b>Settlement currency</b> | <b>Maturity</b>     | <b>Settlement currency type</b> | <b>Optionality</b> | <b>Notional type</b> |
| EURIBOR                    | EUR                        | 28 days to 50 years | Single currency                 | No                 | Constant or variable |

| Overnight index swaps |                     |                    |                          |             |               |
|-----------------------|---------------------|--------------------|--------------------------|-------------|---------------|
| Floating rate index   | Settlement currency | Maturity           | Settlement currency type | Optionality | Notional type |
| CORRA                 | CAD                 | 7 days to 30 years | Single currency          | No          | Constant      |
| FedFunds              | USD                 | 7 days to 3 years  | Single currency          | No          | Constant      |
| SOFR                  | USD                 | 7 days to 50 years | Single currency          | No          | Constant      |
| €STR                  | EUR                 | 7 days to 3 years  | Single currency          | No          | Constant      |
| SONIA                 | GBP                 | 7 days to 50 years | Single currency          | No          | Constant      |

#### Forward rate agreements

| Floating rate index | Settlement currency | Maturity          | Settlement currency type | Optionality | Notional type |
|---------------------|---------------------|-------------------|--------------------------|-------------|---------------|
| EURIBOR             | EUR                 | 3 days to 3 years | Single currency          | No          | Constant      |

#### Credit default swaps

| Index         | Region        | Maturity             | Applicable series                | Tranched |
|---------------|---------------|----------------------|----------------------------------|----------|
| CDX.NA.IG     | North America | 5 years and 10 years | Series 46 and subsequent series. | No       |
| CDX.NA.HY     | North America | 5 years              | Series 46 and subsequent series. | No       |
| iTraxx Europe | Europe        | 5 years              | Series 45 and subsequent series. | No       |

3. This Instrument comes into force on *[insert date here]*.

## **Annex B**

Would adding some single-name CDS to the list of mandatory clearable derivatives be beneficial for market participants? Please explain the reasons why it would be appropriate or not.