

**Annex B**  
**Summary of Comments and Responses on Proposed Amendments to National Instrument 94-101**  
***Mandatory Central Counterparty Clearing of Derivatives***

On September 19, 2024, the CSA published the Proposed Amendments to National Instrument 94-101 to request comments from market participants, except for the BCSC which was unable to publish at that time due to British Columbia's elections and related communications stoppage. The BCSC published the Proposed Amendments for comments on March 14<sup>th</sup>, 2025, and worked with staff from other CSA members in reviewing of all comment letters and the preparation of this Notice, including our responses to comments. CSA staff thank all the commenters for taking the time and effort to respond.

**Overview of comments**

***General support for the initiative***

All commenters were generally supportive of the changes 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. As the Proposed Amendments reflected the cessation of certain IBORs and the CDOR interest rate benchmarks, the removal of the requirement to clear OTC derivatives referencing those benchmarks is appropriate.

Most commenters welcomed the addition of certain OIS referencing, among others, SOFR, €STR and CORRA to the list of mandatory clearable derivatives. One commenter believed that the high level of voluntary clearing by market participants of OIS referencing those overnight risk-free interest rate benchmarks has demonstrated the beneficial effects on the mitigation of systemic risk. Two other commenters pointed out that the CSA's initiative is largely in line with global developments and the existing requirements in other jurisdictions on the scope of the mandatory central counterparty clearing requirements.

**Addition of new classes of derivatives**

With respect to the addition of OTC derivatives referencing the AUD BBSW and certain CDS indices, two commenters fully supported the CSA's initiative to include them within the scope of mandatory clearable derivatives. The commenters mentioned that those products are already widely cleared by market participants and pointed out that the mandatory clearing increases the level of standardization and liquidity in OTC markets for these classes of derivatives.

**Effective date of the Amendments**

Two commenters requested a six-month implementation period starting from the date of the final publication of the Amendments before they become effective. This implementation period would allow market participants sufficient time to adapt their control framework, middleware and reporting systems.

**Maturity of OIS referencing CORRA**

The Proposed Amendments require the clearing of OIS referencing CORRA interest rate benchmark with a maturity between 7 days and 30 years. Two commenters recommended harmonizing the maturity scope of OIS referencing CORRA with the Commodity Futures Trading Commission's (CFTC) clearing requirement by aligning OIS referencing CORRA with the maturity period of 7 days to 2 years currently in place in the United States. Furthermore, one of these commenters pointed out the absence of supporting

derivatives data or rationale to explain the increase of the scope of maturity for OIS referencing CORRA interest rate benchmark from 2 years to 30 years.

### **Maturity of OIS referencing SONIA**

The Proposed Amendments require the clearing of OIS referencing SONIA interest rate benchmark with a maturity between 7 days to 50 years. One commenter recommended alignment with CFTC's clearing requirements. The commenter suggested harmonizing with the maturity period of 7 days to 2 years.

### **Request for additional information**

One commenter requested additional information regarding the quantitative thresholds and any additional indicators or discretionary factors that were used by staff to update the list of mandatory clearable derivatives. Specifically, the commenter would prefer to review a summary of the analysis and evaluation criteria for each derivative listed as mandatory clearable derivatives. The commenter suggested that this analysis should include the international harmonization criteria which is an important factor in the determination of CSA's modifications.

### **The reference to risk-free interest rate benchmarks**

One commenter suggested to CSA staff refrain from using the term "risk-free" when describing the update of the list of mandatory clearable derivatives referencing new overnight interest rate benchmarks. The commenter believes that such term could be perceived as misleading for investors as "risk-free" does not accurately describe the nature of the derivatives listed in Appendix A of National Instrument 94-101. To avoid potential confusion, the commenter suggested to CSA staff to remove such term from its publication.

### **The CSA's question regarding single-name CDS**

Three commenters responded to the CSA's question whether the addition of single-name CDS to the list of mandatory clearable derivatives would be beneficial for market participants. None of these commenters supported the addition of any single-name CDS.

Despite the recognition of benefits associated with clearing OTC derivatives such as the reduction of counterparty risk, the three commenters pointed out that there is currently no other jurisdiction requiring mandatory clearing of single-name CDS. Given the small size of Canada's OTC derivatives market compared with the global OTC derivatives market, the commenters were of the opinion that Canada should not be the first jurisdiction to require the clearing of these products.

One of the commenters suggested that requiring mandatory clearing of single-name CDS may result in a reduction of liquidity and a significant increase in margin requirements for market participants. The commenter added that the implementation of such a requirement would impose significant costs and increase the regulatory burden upon regulated entities. The other commenter doubted that single-name CDS are sufficiently liquid for mandatory clearing requirements.

<b>General comments on the Proposed Amendments</b>		
<b>Subject</b>	<b>Comments</b>	<b>CSA Responses</b>
General comments	There was widespread support for the general objective of the Proposed Amendments, with comments that this will enhance liquidity and international harmonization.	We thank the commenters for their submission.
Removal of IBORs and CDOR interest rate benchmarks	All commenters acknowledged the shift to the overnight risk-free interest rate benchmarks and welcomed the removal of certain IBORs and CDOR interest rate benchmarks which are no longer of a systemic importance.	We appreciate the commenters' review and feedback.
Addition of OIS referencing new interest rate benchmarks regime	Commenters addressing this topic directly welcomed the addition of OIS referencing overnight risk-free interest rate benchmarks to reflect the transition to this new regime. This CSA initiative is in line with global developments.	
Addition of new classes of derivatives	The addition of new classes of derivatives such as swaps referencing BBSW or CDS indices was welcomed by two commenters. These products are already widely cleared, and the CSA's initiative will increase both the liquidity and the level of standardization.	
Effective date of the Proposed Amendments	Two commenters requested a six-month period for the implementation following the	We acknowledge that market participants have to prepare to comply with the new scope of mandatory clearable derivatives. Consequently, CSA staff agrees to grant market participants a six-month

	final publication of the Amendments.	implementation period starting from the date of the final publication of the Amendments.
Maturity of OIS referencing to CORRA interest rate benchmark	Two commenters recommended harmonization with the mandatory clearing requirements in the United States.	<p>No change.</p> <p>CDOR ceased to be published after a final publication on June 28<sup>th</sup>, 2024, and was replaced by CORRA for most instruments. This risk-free rate benchmark rapidly became the main interest rate benchmark in Canada.</p> <p>The transition to risk-free interest rate benchmarks has caused parties with contractual provisions referencing CDOR to negotiate fallback clauses providing the replacement of CDOR with the CORRA. As a result, the CORRA became systemically important for Canadian financial markets.</p> <p>With the migration from CDOR to CORRA interest rate benchmark, outstanding positions with a maturity beyond 2 years have grown substantially as compared to trading volume in the Reference Period. Similarly, trading volume beyond this maturity has increased significantly as compared to the Reference Period.</p>
Maturity of OIS referencing SONIA interest rate benchmark	One commenter recommended harmonization with the mandatory clearing requirements in the United States.	<p>No change.</p> <p>On August 12<sup>th</sup>, 2022, the CFTC amended its rule to extend the scope of maturity of OIS referencing SONIA to 7 days to 50 years.</p> <p>That amendment, intended to align the CFTC's requirements with global developments, has been effective since October 31<sup>st</sup>, 2022.</p>

Request for additional information	One commenter requested additional information regarding the quantitative thresholds and any additional indicators or discretionary factors that were used by the CSA to update the list of mandatory clearable derivatives.	<p>No change.</p> <p>We appreciate the commenter’s feedback but would like to point out that the factors used to determine which OTC derivatives or classes of OTC derivatives should be subject to the mandatory clearing requirements are listed in the consultation notice dated September 19, 2024, and the NI 94-101 Companion Policy.</p>
Reference to overnight risk-free interest rate benchmarks	One commenter suggested that the CSA should avoid using the term “risk-free” when referring to interest rate benchmarks.	<p>No change.</p> <p>We thank the commenter for its input; however, the CSA is using a term which is commonly used by industry, international organizations, regulators and central banks.</p>
Addition of single-name CDS to the list of mandatory central counterparty clearing	Three commenters answered the CSA’s question, and none supported the addition of any single-name CDS to the list of mandatory clearable derivatives.	<p>We thank the commenters for their submission, and we acknowledge that international harmonization should be considered by the CSA before adding single-name CDS to the list of mandatory clearable derivatives.</p> <p>We have therefore removed single-name CDS from the list of mandatory clearable derivatives.</p> <p>Should the CSA staff consider the addition of any single-name CDS to the list of mandatory clearable OTC derivatives in the future, it will consult market participants.</p>