

CSA Multilateral Notice Of Publication
Amendments to Multilateral Instrument 96-101
Trade Repositories and Derivatives Data Reporting

Changes To Companion Policy 96-101CP *Trade Repositories And*
Derivatives Data Reporting

July 25, 2024

Introduction

Certain multilateral jurisdictions of the Canadian Securities Administrators (the **Multilateral Jurisdictions** or **we**) are publishing in final form the following materials:

- (a) amendments to Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting* (the **Trade Reporting Rule**);
- (b) changes to the Companion Policy to MI 96-101 (the **Trade Reporting CP**).

The amendments to the Trade Reporting Rule are referred to as the **Trade Reporting Amendments** and the changes to the Trade Reporting CP are referred to as the **Trade Reporting CP Changes**. The Trade Reporting Amendments and the Trade Reporting CP Changes are collectively referred to as the **Trade Reporting Materials**.

In some jurisdictions, government ministerial approvals are required for the implementation of the Instrument. Provided all necessary approvals are obtained, the Instrument will come into force on July 25, 2025.

Background

The Trade Reporting Rule became effective on May 1, 2016. Based on feedback from various market participants and international developments, the amendments and changes to the Trade Reporting Materials reflect the goals of improving the effectiveness and efficiency of derivatives trade reporting and of ensuring that the provisions of the Trade Reporting Rule remain consistent with international standards.

Substance and Purpose

The Trade Reporting Materials have been developed in accordance with coordinated international efforts to streamline and harmonize derivatives data reporting standards.¹ Increased international standardization of the data elements and the technical format and values for reporting enables market participants to harmonize their reporting systems across multiple global

¹ Harmonized data elements are coordinated through the Committee on Derivatives Identifiers and Data Elements of the Regulatory Oversight Committee (**CDIDE**), which has published and continues to update critical data elements (**CDEs**). International efforts to harmonize data standards are described in more detail here: https://www.leiroc.org/international_bodies.htm.

regulators. This should reduce the complexity of their reporting systems and decrease ongoing operational and compliance costs involved in interpreting and monitoring global reporting requirements, while at the same time strengthen the quality and consistency of the data received by the Multilateral Jurisdictions.

Internationally harmonized data elements include the unique transaction identifier (**UTI**), the unique product identifier (**UPI**), and other data elements specified in Appendix A to the Trade Reporting Rule [*Minimum data fields required to be reported to a recognized trade repository*]. We have limited the number of bespoke Canadian-specific data elements to five.

In addition, the Trade Reporting Materials introduce other notable changes, including:

- increased domestic harmonization and alignment with respect to derivatives regulation and policy;
- improvements designed to enhance data accuracy and consistency, such as data validation and verification, consistent with the requirements of other global regulators;
- a new requirement for a facility for trading derivatives to report transactions that are executed anonymously and are intended to be cleared;
- clearer guidance for market participants through a new technical manual and a substantial overhaul of the Trade Reporting CP.

Canadian Trade Reporting Rules

The Multilateral Jurisdictions have coordinated the publication of the Trade Reporting Materials with the other members of the Canadian Securities Administrators (the **CSA**). We invite market participants to review amendments to OSC Rule 91-507 *Trade Repositories and Derivatives Data Reporting*, Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting*, and Regulation 91-507 *respecting Trade Repositories and Derivatives Data Reporting* (Quebec) (collectively with the Trade Reporting Rule, the **TR Rules**).

Summary of Written Comments Received by the CSA

The securities regulatory authorities of the CSA published proposed amendments to each of the TR Rules on June 9, 2022 (the **Proposed Amendments**) with a comment period ending October 7, 2022. The CSA received submissions from 13 commenters. We thank all commenters for their input. The names of the commenters and a summary of their comments, together with our responses, are contained in Annex A – List of Commenters and Annex B – CSA Summary of Comments and Responses.

Summary of Changes

In finalizing the Trade Reporting Materials, we carefully reviewed the comments that we received on the Proposed Amendments. The commenters expressed general support for globally consistent trade reporting rules and for the reduction in regulatory burden that would be achieved by the Proposed Amendments. We found many of the recommended changes to be persuasive and revised the Trade Reporting Rule and Trade Reporting CP accordingly.

Notable changes from the Proposed Amendments are as follows:

- ***Burden reduction for end-users***

We have extended the reporting deadline for derivatives between two non-dealers for better consistency of North American regulation. This will align the scope of the inter-affiliate exemption across the TR Rules for derivatives where both counterparties are non-dealers.
- ***Clarification regarding notice to the securities regulatory authority of significant errors and omissions***

The Trade Reporting CP provides detailed guidance for reporting counterparties regarding our expectations under subsection 26.3(2) of the Trade Reporting Rule to notify the securities regulatory authority after discovering a significant error or omission with respect to derivatives data.
- ***Porting derivatives to a different recognized trade repository***

The Trade Reporting Rule now provides a process for a reporting counterparty to transfer to a different recognized trade repository.
- ***Position reporting***

Reporting counterparties are generally required to report ongoing data relating to each open derivative, for example, regarding lifecycle events, valuation, and collateral and margin. The Trade Reporting Amendments will provide for position level reporting, which will ease the regulatory burden by enabling reporting counterparties, at their option, to report this ongoing data with respect to contracts for difference as a netted aggregate of multiple derivatives that are fungible, rather than separately for each derivative. We are further reducing regulatory burden by extending this option to commodity derivatives that meet these conditions. Reporting counterparties must still report creation data separately for each derivative.
- ***Harmonized hierarchy for assigning the UTI***

We have introduced a flexible and domestically harmonized hierarchy to determine which counterparty is required to assign the UTI and to which others it is required to be provided. This will improve efficiency in the generation and reporting of this identifier.
- ***Requirements that apply to recognized trade repositories***

We are committed to ensuring that the Trade Reporting Rule appropriately reflects *Principles for financial market infrastructures*.² In light of comments that we received, we have tailored the Proposed Amendments regarding the requirements of recognized trade repositories in several respects, including to ensure consistency among North American regulatory requirements. We have also clarified our expectations regarding corrections to data available to the securities regulatory authority and publicly disseminated data. By requiring less frequent submissions regarding changes that are not significant and

² *CPSS-IOSCO Principles for financial market infrastructures* (April 2012), available at: https://www.bis.org/cpmi/info_pfmi.htm

clarifying our expectations regarding changes that are significant, we believe we have reduced regulatory burden on recognized trade repositories.

- ***Requirements that apply to a facility for trading derivatives***

As proposed, the Trade Reporting Amendments require a facility for trading derivatives to report anonymous derivatives that are intended to be cleared. However, in order to reduce the regulatory burden on a facility for trading derivatives, we have tailored the data elements that they are required to report, and provided them with additional time to determine whether a participant, or its customer, is a local counterparty under paragraph (c) of the definition of “local counterparty”.

- ***Updates to required data elements***

From the proposed list of data elements in Appendix A to the Trade Reporting Rule, we have removed those that relate to excess collateral, which do not align with data elements required by the U.S. Commodity Futures Trading Commission (CFTC). Also, to reflect recent updates to global standards, we added certain CDE data elements to provide us with better targeted data, such as data that is not included in the UPI.³

- ***New Instrument title***

We are changing the title of the Trade Reporting Rule to *Derivatives: Trade Reporting*. The new title is simpler and aligns with the format of other recent derivatives instruments. It is not intended to reflect any substantive change.

The Trade Reporting Materials and our reasons for making changes are discussed in more detail in Annex B – CSA Summary of Comments and Responses.

Other Notable Amendments

We also highlight the following Trade Reporting Amendments:

- ***180-day transition period for commodity derivative exclusion***

The TR Rules will continue to provide, within section 40, a 180-day transition period for local counterparties who cease to meet the criteria for the commodity derivative exclusion set out in that section.

- ***Harmonized “affiliated entity” definition***

Within Canada, under the TR Rules, we have harmonized the concept of “affiliated entity” to align with National Instrument 93-101 *Derivatives: Business Conduct*.

- ***Harmonized terminology relating to reportable derivatives***

While the CSA’s intention has been to apply trade reporting requirements to the same contracts in all our jurisdictions, the TR Rules have not been consistent in the terminology that is used to describe these. Some TR Rules refer to “transactions” that are required to be

³ Recent updates by CDIDE to CDE data elements are available here:
https://www.leiroc.org/publications/gls/roc_20230929.pdf

reported, while others refer to “derivatives”. The CSA have now adopted a harmonized terminology under the TR Rules, which reflects that each transaction must be reported as a unique derivative. This is not intended to result in any substantive change in reporting, but rather to enable a single set of data elements under the TR Rules, together with a single CSA Derivatives Data Technical Manual. Market participants will be able to continue to report the same data elements in the same way for all of their Canadian trade reporting.

Derivatives Linked to Crypto Assets

There were no comments received on the clarification we proposed in the Trade Reporting CP that certain crypto assets that are considered to be “financial commodities” do not fall within the exclusion in section 40 [*Commodity transactions*]. Accordingly, derivatives linked to these crypto assets are required to be reported under the Trade Reporting Rule.

New CSA Derivatives Data Technical Manual

A new CSA Derivatives Data Technical Manual, attached as an Appendix to the Trade Reporting CP, has been created to inform market participants on how to consistently report in accordance with the Trade Reporting Rule, which includes guidance on administrative matters such as the format and values for reporting in line with international data standards, together with examples. This approach aligns with the approach taken by the CFTC and will permit flexibility for future updates to technical guidance to maintain harmonization with global changes in reporting formats and values.⁴

While the CSA had proposed four distinct draft technical manuals for each of the TR Rules, upon consultation, we have instead published a single technical manual across the CSA to reduce regulatory burden and promote consistent reporting under the TR Rules.

Benchmark Reference Rates

We are monitoring changes to benchmark reference rates, including recent updates relating to CDOR, USD LIBOR, EURIBOR and GBP LIBOR, which will affect indices that we require to be publicly disseminated. We will continue to monitor these developments as they affect trading liquidity, and we will assess whether other products are suitable for public dissemination at a later date.

Coming-Into-Force

Subject to any required ministerial approval in certain CSA jurisdictions, the Trade Reporting Amendments will come into force on July 25, 2025. This provides a one-year implementation period, which balances the need of market participants to manage their implementation of global regulatory changes with the benefits of ensuring that Canada’s trade reporting requirements are implemented in a timely manner to coincide with global changes. On November 10, 2022, we issued CSA Staff Notice 96-303 *Derivatives Data Reporting Transition Guidance* to provide guidance to market participants before the Trade Reporting Amendments become effective.

⁴ Including, but not limited to, the ISO 20022 data dictionary.

Annex E sets out an unofficial consolidation of the Trade Reporting Rule which reflects the Trade Reporting Amendments once they take effect; this is included for reference purposes only.

Coordinated Blanket Order

We anticipate publishing a coordinated blanket order to enable certain market participants to benefit from a number of the reductions in regulatory burden under the Trade Reporting Amendments without having to wait until they come into force. This will allow for better coordination of North American regulatory requirements.

List of Annexes

This notice contains the following annexes:

Annex A	List of Commenters
Annex B	CSA Summary of Comments and Responses
Annex C	Amendments to the Trade Reporting Rule
Annex D	Blackline of amendments to the Trade Reporting Rule
Annex E	Unofficial consolidation of the Trade Reporting Rule
Annex F	Changes to the Trade Reporting CP
Annex G	Blackline of changes to the Trade Reporting CP

Questions

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