

CSA Staff Notice 96-303

Derivatives Data Reporting Transition Guidance

November 10, 2022

Introduction

Staff of the Canadian Securities Administrators (**CSA Staff** or **we**) are publishing this notice to provide their guidance to market participants in light of changes to swap data reporting rules that will be implemented by the Commodity Futures Trading Commission (the **CFTC**).

Background and Purpose

The Committee on Payments and Market Infrastructure led by the Bank of International Settlements and the International Organization of Securities Commissions (together, **CPMI-IOSCO**) established a working group to develop harmonized international derivatives data standards that could be incorporated into domestic derivatives reporting rules to clarify requirements and standardize data fields. In April 2018, CPMI-IOSCO published globally accepted guidance that defines how certain derivatives transaction details should be reported (the **CPMI-IOSCO Data Guidance**).

Capital market regulators globally are now in the process of adopting these standards through revisions to existing trade reporting rules. In the US, the CFTC has revised its swap data reporting rules¹ to adopt the CPMI-IOSCO Data Guidance, which we understand are scheduled to be implemented beginning December 2022 (the **CFTC Amendments**).²

On June 9, 2022, proposed amendments (the **CSA Proposed Amendments**) to the following trade reporting rules (collectively, the **Trade Reporting Rules**) were published:

- Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting*,
- Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting*,
- Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting*, and
- Quebec Regulation 91-507 *respecting Trade Repositories and Derivatives Data Reporting*.

One of the goals of the CSA Proposed Amendments is to incorporate the updated data elements in the CPMI-IOSCO Data Guidance into the Trade Reporting Rules. We are aiming to implement the CSA Proposed Amendments in 2024. Accordingly, there will be a period of time where certain reporting counterparties will be subject to revised reporting requirements under the

¹ Amendments to CFTC Rules Parts 43, 45, 46 and 49: Final Rule, *Swap Data Recordkeeping and Reporting Requirements*, 85 Fed. Reg. 75503 (Nov. 25, 2020); Final Rule, *Real-Time Public Reporting Requirements*, 85 Fed. Reg. 75422 (Nov. 25, 2020); and Final Rule, *Certain Swap Data Repository and Data Reporting Requirements*, 85 Fed. Reg. 75601 (Nov. 25, 2020).

² CFTC Letter No. 22-03 (No-Action) dated January 31, 2022.

CFTC Amendments but will not be subject to comparable revised requirements in Canada until the CSA Proposed Amendments are finalized and implemented (the **Transition Period**). During the Transition Period, trade repositories may, in connection with the CFTC Amendments, update submission specifications for market participants that also report under the Trade Reporting Rules. The purpose of this guidance is to assist reporting counterparties in complying with the Trade Reporting Rules during the Transition Period.

Transition Period Guidance

CSA Staff are providing the following guidance during the Transition Period:

1. Where derivatives data is reportable under the current Trade Reporting Rules, and where analogous data is required under the CFTC Amendments:
 - market participants may comply with the Trade Reporting Rules if they report that data according to a CFTC data element that is comparable to the relevant data element in Appendix A to the Trade Reporting Rules (if supported by the designated or recognized trade repository).

Example:

A reporting counterparty that is reporting data in relation to the data element “Counterparty side” will comply with the Trade Reporting Rules by reporting that data under the CFTC data element “Buyer identifier”, “Seller identifier”, “Payer identifier” or “Receiver identifier”, as applicable, notwithstanding that the description of the data element under Appendix A to the Trade Reporting Rules is not identical to the CFTC’s definition for these data elements, provided that the designated or recognized trade repository supports this reporting.

2. Where derivatives data is reportable under the CFTC Amendments but is not reportable under the current Trade Reporting Rules:
 - this data continues not to be reportable under the current Trade Reporting Rules. However, market participants may, at their option, report this data if the relevant data element has been proposed in the CSA Proposed Amendments and if supported by the designated or recognized trade repository.

Example:

Daily margin data, which is required under the CFTC Amendments, is not reportable under the current Trade Reporting Rules. However, reporting counterparties should be aware that this data element is proposed to be required under the CSA Proposed Amendments and therefore it is anticipated that this data will be required once the CSA Proposed Amendments are implemented. If supported by the designated or recognized trade repository, market participants may optionally report this data during the Transition Period.

3. Where derivatives data is reportable under the current Trade Reporting Rules, but is not reportable under the CFTC Amendments:

- this data continues to be reportable under the Trade Reporting Rules.

Example:

The jurisdiction of a local counterparty under the current Trade Reporting Rules continues to be reportable during the Transition Period, even though it is not reportable under the CFTC Amendments.

The above guidance under paragraphs 1 and 2 will facilitate reporting during the Transition Period, to the extent supported by a designated or recognized trade repository. This guidance should not be interpreted as requiring a designated or recognized trade repository to support these options. We invite market participants to contact their trade repositories to understand any upcoming changes resulting from implementation of the CFTC Amendments and the trade repository's intended approach during the Transition Period.

Questions

Please refer any questions to:

Kevin Fine
Co-Chair, CSA Derivatives Committee
Director, Derivatives Branch
Ontario Securities Commission
416-593-8109
kfine@osc.gov.on.ca

Dominique Martin
Co-Chair, CSA Derivatives Committee
Director, Oversight of Trading Activities
Autorité des marchés financiers
514-395-0337, ext. 4351
dominique.martin@lautorite.qc.ca

Paula White
Deputy Director, Compliance and Oversight
Manitoba Securities Commission
204-945-5195
paula.white@gov.mb.ca

Abel Lazarus
Director, Corporate Finance
Nova Scotia Securities Commission
902-424-6859
abel.lazarus@novascotia.ca

Michael Brady
Deputy Director, Capital Markets
Regulation
British Columbia Securities Commission
604-899-6561
mbrady@bcsc.bc.ca

Janice Cherniak
Senior Legal Counsel
Alberta Securities Commission
403-355-4864
janice.cherniak@asc.ca

David Shore
Senior Legal Counsel, Securities
Financial and Consumer Services
Commission (New Brunswick)
506-658-3038
david.shore@fcnb.ca

Graham Purse
Legal Counsel
Financial and Consumer Affairs Authority
of Saskatchewan
306-787-5867
graham.purse2@gov.sk.ca