

March 24, 2015

Michael Brady
Senior Legal Counsel, Capital Markets
British Columbia Securities Commission
P.O. Box 10142 Pacific Centre
701 West Georgia Street
Vancouver, British Columbia V7Y 1L2
Fax: 1-888-801-0607
mbrady@bcsc.bc.ca

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Financial and Consumer Services Commission (New Brunswick)
Nova Scotia Securities Commission

Dear Sirs/Mesdames:

RE: Encana Corporation – Comments on CSA Proposed Multilateral Instrument 91-101 – Derivatives Product Determination and Proposed Multilateral Instrument 96-101 Trade Repositories and Derivatives Data Reporting

Encana Corporation (“Encana”) is pleased to respond to the request for comments by the British Columbia Securities Commission; the Alberta Securities Commission; the Financial and Consumer Affairs Authority of Saskatchewan; the Financial and Consumer Services Commission (New Brunswick) and the Nova Scotia Securities Commission (collectively “the **Authorities**”) with respect to the above captioned.

Specific Comments and Responses to the Authorities’ Questions

(a) The Scope Rule and Scope CP

“1. Does the Scope CP provide sufficient clarity as to the contracts and instruments that are subject to trade reporting? Please provide specific examples where there is not sufficient clarity.”

ENCANA COMMENT: In general, the Scope CP provides sufficient clarity as to the contracts and instruments subject to trade reporting.

“2. The Scope Rule and Scope CP indicate that options to purchase commodities are derivatives but that certain optionality embedded in an agreement to purchase commodities for

Encana Services Company Ltd.

500 Centre Street SE PO Box 2850 Calgary AB T2P 2S5 CANADA 403.645.2000 encana.com

Encana Services Company Ltd. provides operational, corporate, administrative and advisory services to Encana Corporation and its subsidiaries.

future delivery will not, in itself, result in the agreement being a derivative. Do you agree with this approach? Please explain."

ENCANA COMMENT: Yes, Encana agrees. We believe that the key concept for excluding certain optionality from the scope of trade reporting is the intent by both parties to physically make and take delivery of the underlying asset or commodity. This concept appears to be reflected in the Scope Rule and Scope CP. Does this exemption include transactions in which both parties intend to make and take delivery of a physical asset even if terms of the transaction provide one or both parties the right to revise the delivered quantity from zero to an agreed-upon maximum over the term of the deal?

(b) The TR Rule and TR CP
"Local counterparty definition"

Encana has no answers to questions 4 and 5 as posed by the Authorities, but we seek clarification pertaining to the local counterparty definition and the definition of affiliated entity.

ENCANA QUESTIONS: Will the Authorities recognize substitute compliance if derivative transactions are reported to a non-Canadian trade repository. The Authorities have stated in the companion policy to the Trade Reporting Rule 96-101 that "Subsection 26(5) provides for limited substituted compliance with this Instrument where a transaction has been reported to a recognized trade repository pursuant to the laws of a province of **Canada** other than the local jurisdiction or of a foreign jurisdiction listed in Appendix B, provided that the additional conditions set out in paragraphs 26(5) (a) and (c) are satisfied" [Emphasis added]. Encana questions whether the authorities would deem reporting to a non-Canadian trade repository as substitute compliance as provided for Canadian recognized trade repositories in Subsection 26(5). For example, if Encana's counterparty to a derivative transaction is a US entity obligated to report initial, lifecycle and valuation trade details to a swap data repository under Dodd-Frank regulations, will the Authorities accept this as Encana's compliance with Alberta derivative regulations related to trade reporting? If not, will Encana (as the local counterparty) be obligated to duplicate this reporting? And will Encana's counterparty be required to duplicate this reporting to a Canadian-approved or -recognized trade repository?

"Definition of affiliated entity"

ENCANA QUESTIONS: Encana notices that the Authorities have not differentiated between reporting of derivatives transactions done with market counterparties from derivatives transactions done internally within a corporate group. Do the Authorities expect derivative transactions between affiliates to be reported to a trade repository, even if the results of these two entities are consolidated into a single set of financial statements? If yes, Encana would like the Authorities to please clarify what systemic or other risks do these inter-affiliate transactions pose to the market. Other jurisdictions do not require the reporting of inter-affiliate transactions. In the US, for example, the CFTC gave conditional no-action relief exempting inter-affiliate reporting.



End-user Commodity Transactions Exemption

"9. Section 40 of the proposed TR Rule contemplates an exemption from trade reporting for commodity-based derivatives transactions that differs from the section 40 exemption in the existing TR rules in Manitoba, Ontario and Québec. The proposed TR Rule would exempt commodity-based transactions between two end-users provided each counterparty is below a threshold of \$250,000,000 aggregate notional value, without netting, under all of its outstanding commodity-based derivatives transactions."

ENCANA QUESTIONS: What was the basis for establishing this limit at \$250 million? What happens if the aggregate notional value of one or both counterparties becomes greater than \$250 million subsequent to the execution of the transaction between the two end-users? This could happen for several reasons, including incremental transactions by one or both parties; or changes to the notional value in Canadian dollars of foreign currency denominated transactions due to changes in foreign exchange rates.

"(f) One of the policy rationales for requiring derivatives trade reporting is to increase transparency. To what extent is lack of transparency in respect of commodity derivatives a concern? Please explain."

ENCANA COMMENT: Up to now Encana has not considered lack of transparency in respect of commodity transactions to be an issue. We see that markets are, more or less, transparent depending on the number of active participants and the tenor and complexity of each transaction.

"(h) Would the adoption of a section 40 exemption threshold at \$250 million, or at a significantly higher level, result in systemic risk in Canada or in any of the participating jurisdictions? Please specify and explain."

ENCANA COMMENT: Setting a threshold for exemption from trade reporting will not likely change transacting behaviours because there are already few commodity derivative transactions between end-users. Derivative transactions involving only one end-user would be required to be reported by the other party to the transaction.

ANNEX C

PART 4

DATA DISSEMINATION AND ACCESS TO DATA

"Data available to public"

"39. (1) A recognized trade repository must, on a periodic basis, create and make available to the public, at no cost, aggregate data on open positions, volume, number and, where applicable, price, relating to the transactions reported to it pursuant to this Instrument."

ENCANA COMMENT: While the requirement to make OTC derivative transaction data available to regulators was part of the commitment Canada made to the G20, we believe making transaction data available to the public was not a commitment. Why is there a requirement for trade repositories to make any data available to the public? Some derivative markets are so illiquid that making trade data available to the public within one or two days of trade execution may (1) enable the identity of one or both counterparties to be deduced, or (2) increase the cost of transacting to end-users trying to hedge commercial exposures.

"41. Despite any other section of this Instrument, a reporting counterparty is not required to report derivatives data for a transaction between

(a) the government of a local jurisdiction, and

(b) a crown corporation or agency that forms part of a consolidated entity with that government for accounting purposes."

ENCANA QUESTION: Does this exclusion mean that data does not need to be reported for derivative transactions between (for example) Alberta Treasury Branch and Powerex? If yes, this would seem to contradict the objective of increasing market transparency.

APPENDIX A

Minimum Data Fields Required to be Reported to a Recognized Trade Repository

Data field: "Inter-affiliate"

ENCANA COMMENT: Please refer to question on reporting inter-affiliate derivative transaction data, above.

"A. Common Data"

Data field: "Delivery type"



ENCANA COMMENT: This field indicates whether a transaction is settled physically or in cash. However, the Scope Rule excludes from reporting derivative transactions that are intended to be settled physically. Please explain the contradiction.

Data field: "Delivery point"

ENCANA COMMENT: Please refer to the question on the Delivery type data field.

APPENDIX B
Equivalent Trade Reporting Laws

ENCANA COMMENT: This list is currently blank. When will this list of equivalent trade reporting laws be provided?

Please contact me at (403) 645-7519 or by email at scott.dalton@encana.com if you have any questions.

Yours very truly,

ENCANA CORPORATION, by its
authorized agent, Encana Services Company Ltd.

A handwritten signature in black ink, appearing to read "Scott Dalton". The signature is fluid and cursive.

Per: Scott Dalton
Director, Risk Management

CC: David Sheridan (david.sheridan@encana.com);
Ryan Edwards (ryan.edwards@encana.com).