

**British Columbia Securities Commission**

BC Instrument 94-501

**Exemption from the mandatory clearing requirements in National Instrument  
94-101 *Mandatory Central Counterparty Clearing of Derivatives* for certain counterparties**

The British Columbia Securities Commission (the Commission), considering that to do so would not be prejudicial to the public interest, varies BC Instrument 94-501 - Exemption from the mandatory clearing requirements in National Instrument 94-101 – *Mandatory Central Counterparty Clearing of Derivatives* for certain counterparties to extend the exemption so that it reads as attached.

May 31, 2018

Nigel P. Cave  
Vice-Chair

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*(This part is for administrative purposes only and is not part of the Order)*

**Authority under which Order is made:**

Act and sections:- *Securities Act*, sections 171 and 187

BC Instrument 94-501

**Exemption from the mandatory clearing requirements in National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives* for certain counterparties**

*(Order under sections 171 and 187 of the Securities Act)*

**Definitions**

1. Terms defined in the *Securities Act* (British Columbia) (the Act), National Instrument 14-101 *Definitions* and in National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives* (NI 94-101) have the same meaning in this Instrument.

**Background**

2. Subsection 3(1) of NI 94-101 requires a local counterparty to a transaction in a mandatory clearable derivative to submit, or cause to be submitted, the mandatory clearable derivative to a regulated clearing agency that offers clearing services in respect of the mandatory clearable derivative (the Clearing Requirement), if one or more of the following applies to each counterparty:
  - (a) the counterparty
    - (i) is a participant of a regulated clearing agency that offers clearing services in respect of the mandatory clearable derivative, and
    - (ii) subscribes to clearing services for the class of derivatives to which the mandatory clearable derivative belongs;
  - (b) effective October 4, 2017, the counterparty
    - (i) is, at the date the transaction for the mandatory clearable derivative occurs, an affiliated entity of a participant referred to in paragraph (a), and
    - (ii) has had, at any time after the date on which NI 94-101 comes into force, a month-end gross notional amount under all outstanding derivatives exceeding \$1 000 000 000 excluding derivatives to which paragraph 7(1)(a) of NI 94-101 applies;
  - (c) effective October 4, 2017, the counterparty
    - (i) is, at the date the transaction for the mandatory clearable derivative occurs, a local counterparty in any jurisdiction of Canada, other than a counterparty to which paragraph (b) applies, and

- (ii) has had, at any time after the date on which NI 94-101 comes into force, a month-end gross notional amount under all outstanding derivatives, combined with each affiliated entity that is a local counterparty in any jurisdiction of Canada, exceeding \$500 000 000 000 excluding derivatives to which paragraph 7(1)(a) of NI 94-101 applies.
- 3. On October 17, 2017, the Commission published for comment proposed amendments to NI 94-101(the Proposed Amendments). The Commission is considering the comments received on the Proposed Amendments. If implemented, the Proposed Amendments would change the scope of application of the Clearing Requirement so that certain counterparties will not be subject to the Clearing Requirement under paragraphs 3(1)(b) and (c) of NI 94-101.
- 4. Some counterparties that would have been subject to the Clearing Requirement effective October 4, 2017 may not be subject to the Clearing Requirement as a result of the Proposed Amendments.

### **Order**

Considering that it would not be prejudicial to the public interest to do so, the Commission orders as follows:

- 5. A counterparty that is subject to a Clearing Requirement under paragraph 3(1)(b) or (c) of NI 94-101 is exempt from that requirement unless that counterparty is also subject to a Clearing Requirement under paragraph 3(1)(a) of NI 94-101.
- 6. The exemption under paragraph 5 of this Instrument is only available in respect of a transaction in a mandatory clearable derivative that occurs on or before the earlier of
  - (a) the date on which this order is revoked, and
  - (b) the date on which amendments that change the scope of the application of the Clearing Requirement under paragraphs 3(1)(b) or (c) of NI 94-101 come into effect.
- 7. This order takes effect on October 4, 2017.