



Canadian Securities
Administrators

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Canadian Securities Regulators Seek Comment on Rules Protecting Customer Collateral for Cleared Derivatives

Toronto – Members of the Canadian Securities Administrators (CSA) today published for comment Proposed National Instrument 94-102 *Derivatives: Customer Clearing and Protection of Customer Positions and Collateral* and its companion policy (the proposed instrument) for a 90-day comment period. The proposed instrument sets out requirements for the treatment of customer collateral, record-keeping and disclosure for clearing intermediaries and regulated clearing agencies providing clearing services for over-the-counter (OTC) derivatives.

The purpose of the proposed instrument is to ensure that the clearing of customer OTC derivatives transactions will be carried out in a manner that protects customers' collateral and positions and to improve clearing agencies' resilience to default by a clearing intermediary.

“The proposed instrument introduces key investor protection measures and systemic benefits to the Canadian market for clearing OTC derivatives,” said Louis Morisset, Chair of the CSA and President and CEO of the Autorité des marchés financiers. “The G-20 has recognized that standardized and sufficiently liquid OTC derivatives transactions cleared through central counterparties have a role to play in effectively managing counterparty credit risk.”

The proposed instrument contains requirements for the treatment of customer collateral by clearing intermediaries and regulated clearing agencies, including: (i) requirements relating to collection and segregation of customer collateral; (ii) record-keeping requirements to identify customers' collateral and positions and (iii) restrictions on the use and investment of customer collateral. Further, the proposed instrument creates a framework for customer clearing that promotes stability and efficiency of the OTC derivatives market by facilitating, to the greatest extent possible, the transfer of customer positions and collateral in the event of a clearing intermediary's default or insolvency.

Currently, OTC derivatives clearing infrastructure and service providers are concentrated outside of Canada; the proposed instrument would provide for substituted compliance in specified circumstances where a foreign entity is involved in a transaction and appropriate foreign laws apply.

In developing the proposed instrument, members of the CSA have carefully considered comments received in response to the January 2014 publication and request for comment on CSA Notice 91-304 *Proposed Model Provincial Rule on Derivatives: Customer Clearing and Protection of Customer Positions and Collateral*.

For additional information about OTC derivatives clearing reform in Canada, the public may review the recently published National Instrument 24-102 *Clearing Agency Requirements* and the February 2015 publication of National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives*.

The CSA Staff Notice and the proposed instrument can be found on CSA members' websites. The 90-day comment period expires on April 19, 2016.

The CSA, the council of the securities regulators of Canada's provinces and territories, coordinates and harmonizes regulation for the Canadian capital markets.

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