

CSA Notice regarding
Coordinated Blanket Order 93-930 Re Temporary exemptions for derivatives firms from certain obligations when transacting with certain investment funds and for senior derivatives managers from certain reporting obligations

July 25, 2024

Introduction

On July 25, 2024, the Canadian Securities Administrators (the **CSA** or **we**) published temporary exemptions from specific requirements of National Instrument 93-101 *Derivatives: Business Conduct* (the **Business Conduct Rule** or the **Rule**) regarding derivatives firms dealing with or advising certain investment funds advised or managed by registered or authorized foreign advisers or investment funds managers, and reporting requirements for senior derivatives managers to facilitate transition to the new regime.

The CSA has coordinated the relief through local blanket orders that are substantively harmonized across the country entitled *Coordinated Blanket Order 93-930 Re Temporary exemptions for derivatives firms from certain obligations when transacting with certain investment funds and for senior derivatives managers from certain reporting obligations* (collectively, the **Blanket Order**).

The Blanket Order is being issued in Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Québec, Saskatchewan, and Yukon.

We anticipate that, if the Business Conduct Rule is approved by B.C.'s Minister of Finance, the British Columbia Securities Commission will issue an order that will have the same substantive effect as the Blanket Order.

Background

On September 28, 2023, the CSA published the Business Conduct Rule. The Business Conduct Rule comes into force on September 28, 2024 (the **Effective Date**).

We received submissions with respect to the following:

- (i) *Uniform treatment of certain investment funds*

Some derivatives firms are concerned that the Business Conduct Rule might not be applied uniformly. The main issue relates to how the Rule applies to investment funds that are recognized as 'eligible derivatives parties' (**EDPs**). There is concern that the Rule does not explicitly categorize as EDPs investment funds advised by advisers, or managed by investment funds managers, that are registered or authorized outside Canada, such as those regulated by the U.S. Securities and Exchange Commission (**SEC**) or the U.S. Commodity Futures Trading Commission

(CFTC). These firms noted that this could result in the Rule being applied unevenly to the same investment fund, since the application of the requirements in the Rule depends on whether a derivatives party is classified as an EDP or non-EDP.¹

(ii) *Extension of timing to deliver certain reports to the board of a derivatives dealer*

Derivatives firm requested that the CSA extend the deadline for senior derivatives managers of a derivatives dealer to submit the required reports to their board (the **SDM compliance report**). Specifically, they asked for this reporting to begin in the next calendar year rather than the current calendar year. The reason for this request is the brief period between the Rule's Effective Date and the end of the 2024 year, combined with the operational challenges involved in meeting the current 2024 year-end deadline.

Description of the Blanket Order

The purpose of the Blanket Order is to provide the following exemptions:

(i) *Exemption for a derivatives firm in respect of certain investment funds advised or managed by certain regulated foreign advisers*

To align with the exemption framework in section 8 of the Business Conduct Rule [*Exemptions from certain requirements in this Instrument when dealing with or advising an eligible derivatives party*], a derivatives firm is exempt from certain Rule requirements, except for core obligations in subsection 8(3), when transacting with an investment fund managed or advised by a foreign equivalent to a Canadian registered or authorized investment fund manager or adviser. This exemption aims to create a level-playing field for both domestic- and foreign-advised or foreign-managed investment funds seeking EDP status.

(ii) *Exemption for a senior derivatives manager from the requirement to submit the SDM compliance report by year-end 2024*

A senior derivatives manager is exempt from submitting the SDM compliance report to the board of the derivatives dealer by the current year-end deadline, as required in section 32(3) of the Rule. However, the period from the Effective Date to the end of 2024 must be addressed in the 2025 SDM compliance report.

Day on Which the Blanket Order Ceases to be Effective

The Blanket Order is effective on September 28, 2024. It will cease to be effective in Ontario on March 28, 2026.

¹ It was also submitted that this appeared to be inconsistent with paragraph (k) of the EDP definition, which applies in the context of managed accounts.

Questions

Please refer your questions about this CSA Notice to any of the following:

Dominique Martin
Chair, CSA Derivatives Committee
Senior Director, Market Activities and
Derivatives
Autorité des marchés financiers
514-395-0337, ext. 4351
dominique.martin@lautorite.qc.ca

Alison Beer
Senior Legal Counsel
Derivatives, Trading & Markets Division
Ontario Securities Commission
abeer@osc.gov.on.ca

Leigh-Anne Mercier
General Counsel
Manitoba Securities Commission
204-945-0362
leigh-Anne.Mercier@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

Brian Murphy
Manager, Registration
Nova Scotia Securities Commission
902-424-4592
brian.murphy@novascotia.ca

Amélie McDonald
Manager, Policy – Securities
Financial and Consumer Services Commission,
New Brunswick
506-635-2938
amelie.mcdonald@fcnb.ca

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

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