

IN THE MATTER OF THE SECURITIES ACT,  
R.S.N.S. 1989, CHAPTER 418, AS AMENDED

-AND-

IN THE MATTER OF  
DESIGNATING OVER-THE-COUNTER DERIVATIVES TO BE SECURITIES

ORDER  
(SECTION 30A(1)(ba))

**WHEREAS:**

1. Terms defined in the Securities Act (Nova Scotia) (the Act), and National Instrument 14-101 *Definitions* have the same meaning in this Designation Order unless otherwise defined herein.
2. In this Designation Order:  
  
“OTC derivative” means a derivative that is not an exchange contract.
3. The Commission is working with other members of the Canadian Securities Administrators to develop a harmonized regulatory regime for OTC derivatives. The Commission anticipates that the regime will include regulations relating to registration and business conduct for persons in the business of trading OTC derivatives.
4. OTC derivatives are currently defined as derivatives under the Act. Persons that trade these derivatives are subject to the registration requirement. The prospectus requirement does not apply to derivatives. As such, a person trading a derivative where the trade would be a distribution is not subject to the prospectus requirement.
5. The current proposals relating to registration and business conduct for OTC derivatives contemplate that persons in the business of trading OTC derivatives will be required to register as dealers and provide their counterparties with disclosure outlining the risks that result from entering into OTC derivatives. Until such proposals are implemented, the Commission considers it in the public interest that OTC derivatives be subject to the prospectus requirement.
6. Under section 30A(1)(ba) of the Act, if the Commission considers that it would not be prejudicial to the public interest, the Commission may make an order designating a contract or instrument or a class of contracts or instruments to be a security.

7. The Commission considers that it would not be prejudicial to the public interest to make the following order.

**IT IS ORDERED** pursuant to section 30A(1)(ba) of the Act that an OTC derivative is designated to be security for the purposes of the prospectus requirement.

DATED at Halifax, Nova Scotia, this 28th day of October, 2020.

NOVA SCOTIA SECURITIES COMMISSION

(signed) "Paul E. Radford"  
Paul E. Radford, Q.C., Chair