



Safe,  
Efficient  
Markets

**ISDA Data & Reporting Canadian  
Working Group**

For discussion purposes only

# A Summary of Canadian Trade Reporting Requirements

Version 7, April 30, 2014

**Tara Kruse**, Director  
Data & Reporting, ISDA

# Table of Contents

<u>Topic</u>	<u>Page</u>
• Introduction	3
• Final rules	5
• Product scope	6
• Reporting rules	8
• Local counterparty	9
• Reporting counterparty	10
• Delegated reporting	11
• Derivatives dealer	12
• Reported data	13
• Historic data	14
• Identifiers	15
• Trade Repository	16
• Public dissemination	18
• Recordkeeping	19
• Substituted compliance	20
• Compliance dates	21

# Introduction

---

- Under the Canadian constitution, the 10 provinces and 3 territories in Canada are all separately responsible for securities regulation in their respective provinces.
- Each has its own securities regulator responsible for administering the province's securities act and issuing rules and regulations.
- In order for Canada to meet its G20 commitments, there has been an ongoing coordination of efforts to implement the reform of Canada's OTC derivatives market under the Canadian Securities Administrators (CSA).

# Introduction

---

On November 14, 2013, final versions of harmonized derivatives rules in respect of product determination, trade repositories and derivatives data reporting were simultaneously published by:

- The Ontario Securities Commission (OSC)
- Manitoba Securities Commission (MSC)
- Autorité des marchés financiers (AMF) [Quebec]

The harmonized rules (the “rules”) are the finalization of draft rules proposed and updated by several Canadian provincial securities regulators under the CSA’s OTC Derivatives Committee in response to Canada’s G20 commitments.

The rules came into force on December 31, 2013.

# Final rules

---

## OSC

- OSC Rule 91-506 Derivatives: Product Determination
- OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting
- [http://www.osc.gov.on.ca/documents/en/Securities-Category9/rule\\_20131114\\_91-506\\_91-507\\_derivatives.pdf](http://www.osc.gov.on.ca/documents/en/Securities-Category9/rule_20131114_91-506_91-507_derivatives.pdf)

## MSC

- MSC Rule 91-506 Derivatives: Product Determination
- MSC Rule 91-507 Trade Repositories and Derivatives Data Reporting
- [http://www.msc.gov.mb.ca/legal\\_docs/legislation/notices/91\\_506\\_507\\_notice\\_package.pdf](http://www.msc.gov.mb.ca/legal_docs/legislation/notices/91_506_507_notice_package.pdf)

## AMF

- Regulation 91-506 respecting Derivatives Determination
- Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting
- <http://www.lautorite.qc.ca/files/pdf/reglementation/instruments-derives/reglements/91-507/2013nov14-91-507-avis-publ-en.pdf>
- [http://www.lautorite.qc.ca/files/pdf/bulletin/2013/vol10no45/vol10no45\\_6-2.pdf](http://www.lautorite.qc.ca/files/pdf/bulletin/2013/vol10no45/vol10no45_6-2.pdf)

(English version starts on page 207)

# Product scope

---

## Product Determination – Rule 91-506

Broadly, products defined as derivatives by the provinces are in scope.

- Ontario Securities Act and Manitoba Securities Act:

An option, swap, futures contract, forward contract or other financial or commodity contract or instrument whose market price, value, delivery obligations, payment obligations or settlement obligations are derived from, referenced to or based on an underlying interest (including a value, price, rate, variable, index, event, probability or thing), but does not include,...a commodity futures contract...., a commodity futures option...., [or] a contract or instrument [ordered]... by the Commission...or prescribed by the regulations...not to be a derivative.

- Quebec Derivatives Act:

An option, a swap, a futures contract, a contract for difference or any other contract or instrument whose market price, value, or delivery or payment obligations are derived from, referenced to or based on an underlying interest, or any other contract or instrument designated by regulation or considered equivalent to a derivative on the basis of criteria determined by regulation.

# Product scope

---

For the purposes of reporting, contracts or instruments related to the following are excluded from the definition of a “derivative”:

- Regulated gaming
- Insurance and annuities
- The purchase and sale of currency
- The delivery of a commodity other than cash or currency
- Evidence of a deposit
- Derivatives traded on an exchange (ETDs)

A derivative traded on a multi-to-multi execution platform (e.g. a SEF) is not eligible for the ETD exclusion.

# Reporting rules

---

Trade Repository and Data Reporting – Rule 91-507 covers:

- Regulation of Trade Repositories, including:
  - Designation of trade repositories
  - Filing of initial, annual and interim audited financial statements
  - Governance requirements
- Data Reporting and Dissemination, including:
  - Jurisdictional coverage – “local counterparty”
  - Reporting by a “reporting counterparty” and delegated reporting
  - Creation, lifecycle and valuation data
  - Pre-existing transactions
  - Identifiers (LEI, UTI, UPI)
  - Public Dissemination



# Local counterparty

---

Derivatives involving at least one local counterparty are subject to reporting. A local counterparty is, at the time of the transaction:

- (a) a person or company organized under the laws of, or having its head office or principal place of business in the province
- (b) an affiliate of (a) if responsible for its liabilities
- (c) parties required to registered under provincial securities law as a derivatives dealer

Dealer registration in the provinces is not expected to begin until 2015, so until then parties that fall under the definition of derivatives dealer in the securities law will only have to report if they are a local counterparty or they face a local counterparty.

# Reporting counterparty

---

Both parties have reporting obligations, but in certain cases, such obligation can be met by a single reporting party, as follows:

- If cleared: the recognized or exempt clearing agency
- If uncleared, and between:
  - Two derivatives dealers: both report
  - A derivative dealer and a non-dealer: the dealer
  - Otherwise, each local counterparty

On April 17, 2014, amendments were published to revoke subsection 25(2) of the reporting rules which required the local counterparty to report in the absence of a report by a foreign dealer. Subject to provincial ministerial approval, the change comes into force on July 2, 2014.

# Delegated reporting

---

Despite the dual reporting obligation in some cases, a reporting party can delegate its reporting obligations (though remains responsible for timely and accurate reporting).

Provincial regulators have also confirmed that for uncleared swaps where the parties are either both derivatives dealers or both non-dealer local counterparties, delegation to one of the parties to report is acceptable and preferred.

This does not have to be a formal delegation agreement, rather they are willing to accept an industry standard agreement. ISDA has worked with participants to develop the Canadian Transaction Reporting Party Requirements for this purpose.

# Derivatives dealer

---

Who is a “dealer” or “derivatives dealer”?

- Under OSC and MSC, a derivatives dealer is “a person or company engaging in or holding himself, herself or itself out as engaging in the business of trading in derivatives in Ontario (Manitoba) as principal or agent”
- Under AMF’s Quebec Derivatives Act, a “dealer” means a person who engages or purports to engage in the business of
  - (1) derivatives trading on the person's own behalf or on behalf of others; or
  - (2) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of an activity described in paragraph 1”

# Reported data

---

A reporting party to a transaction involving a local counterparty must report, or cause to be reported, to a designated or recognized trade repository (“TR”):

- Creation data
  - Reportable in “real-time” or as soon as technologically practicable but no later than the end of T+1 business day
- Lifecycle event data
  - Reportable by COB on the day the life-cycle event occurs, but no later than end of T+1 business day
- Valuation data
  - Based on industry accepted valuation standards
  - Derivatives dealer or clearing agency reports daily
  - Non-dealer reports quarterly

# Historic data

---

For “pre-existing transactions” a reporting party must report to a TR:

- a more limited subset of creation data
  - See Appendix A of the Rules
- life-cycle data and valuation data beginning *after* creation data has been reported

If reporting counterparty is a clearing agency or dealer:

- transactions with outstanding contractual obligations on October 31, 2014 are reportable to a TR no later than April 30, 2015

If the reporting counterparty is a non-dealer:

- transactions with outstanding contractual obligations on June 30, 2015 are reportable to a TR no later than December 31, 2015

# Identifiers

---

A reporting party must include the following in every report:

- LEI: the legal entity identifier of each counterparty
  - A “substitute” LEI (“pre-LEI”) may be used in the interim
- UTI: unique transaction identifier
  - Rules provide for the trade repository to generate a UTI unless provided by the reporting party. We expect the industry agreed approach to global UTI to be followed.
- UPI: unique product identifier
  - Use of an “international or industry standard”, and otherwise a reporting counterparty must assign via its own methodology
  - Provincial regulators have recognized use of ISDA OTC Taxonomy

<http://www2.isda.org/attachment/NTQzOQ==/ISDA%20OTC%20Derivatives%20Taxonomies%20-%20version%202012-10-22.xls>

# Trade repository

---

- The Trade Repository is selected by the reporting party and all life cycle and valuation data must be reported to the same TR.
- The recognized or exempt clearing agency must report derivatives data to the designated or recognized TR specified by the local counterparty.
- If no designated or recognized TR can accept the data the counterparty must electronically report directly to the OSC, MSC or AMF.



# Trade repository

---

Under Rule 91-507, a Trade Repository must:

- Obtain and maintain “designation” in Ontario or Manitoba and “recognition” in Quebec
- Provide the regulator with access to reported data
- Provide counterparties with access to data relevant to their transactions
- Aggregate data on open positions, volumes and prices to be reported publicly

# Public dissemination

---

A designated trade repository must, on a periodic basis create and make available aggregate data on open positions, volume, number and price of transactions reported -

- at no cost to the public via website or other publicly accessible technology
- by the end of T+1 from receipt of data if reporting counterparty is a dealer; otherwise by end of T+2
- data fields in Appendix A to rules
- anonymized – no counterparty identification
- excludes inter-affiliate transactions

# Recordkeeping

---

- What: transaction data
- Who: a reporting party
- How: a safe location in a durable form
- When:
  - life of the transaction
  - 7 years after expiration or termination

# Substituted compliance

---

A reporting counterparty satisfies its reporting obligation if the transaction is reported to a trade repository pursuant to:

- the securities legislation of another Canadian province
- the laws of a foreign jurisdiction listed in Appendix B of Rule 91-507

Currently no foreign jurisdictions are listed in Appendix B to the current rules for either OSC, MSC or AMF.

Substituted compliance will only be relevant for foreign dealers once they are registered as derivatives dealers, as trades facing a local counterparty are not eligible for substituted compliance.

# Compliance dates

---

On April 17, 2014, amendments were published to change the effective dates of the reporting obligations. Subject to provincial ministerial approval, the changes come into force on July 2, 2014 as follows:

- Cleared swaps: October 31, 2014
- Uncleared swaps:
  - At least one counterparty is a dealer: October 31, 2014
  - Both parties are non-dealers: June 30, 2015
- Public dissemination of transaction level data: April 30, 2015
- Pre-existing transactions:
  - Reporting counterparty is a clearing agency or dealer: April 30, 2015
  - Both parties are non-dealers: December 31, 2015