

**International Swaps and Derivatives Association, Inc.**

**CANADIAN CLEARING CLASSIFICATION LETTER**

# Published on May 12, 2022

**by the International Swaps and Derivatives Association, Inc.**

On January 19, 2017, the Canadian Securities Administrators published National Instrument 94-101, *Mandatory Central Counterparty Clearing of Derivatives* and a related companion policy (as amended, the “***Canadian Mandatory Clearing Rule***”). This classification letter (this “letter”) allows market participants to provide their counterparties with status information in order to determine if they are in scope for purposes of the Canadian Mandatory Clearing Rule. The representations in this letter are solely for the purposes of making that determination.

***Capitalized terms used in this letter are defined in Appendix I.***

# CLASSIFICATION STATEMENTS

**Question 1: Clearing Agency Participant**

***Instructions***: Please indicate below each OTC RCA (if any) with which you are a Clearing Agency Participant.1

We are a Clearing Participant of the following OTC RCAs:

We are not a Clearing Participant of any OTC RCA

# Question 2: Clearing Participant Affiliate2

***Instructions:*** Please make one of the two representations below by checking the relevant box.

We are a Clearing Participant Affiliate We are not a Clearing Participant Affiliate

# Question 3: Large Notional Counterparty

***Instructions:*** Please make one of the two representations below by checking the relevant box (regardless of your response to Question 1).

We are a Large Notional Counterparty

1 The relevant OTC RCAs will depend on the jurisdiction(s) in which the party using this letter to request information is a Local Counterparty. Parties using this letter should list the potential in-scope OTC RCAs to assist the recipient in completing this letter. Clearing agencies or clearing houses may be added over time if additional OTC RCAs are recognized or exempt from recognition in the future.

2 For purposes of determining whether you are a Clearing Participant Affiliate, you should only have regard to the OTC RCAs listed in Question 1.

We are not a Large Notional Counterparty

# Question 4: Notional Threshold Information

***Instructions:*** If you are a Large Notional Counterparty, please indicate whether you intend to take advantage of the 90-day transition period under paragraph 3(2) of the Canadian Mandatory Clearing Rule (this transition period is not available if you have indicated that you are a Clearing Agency Participant in Question 1 or a Clearing Participant Affiliate in Question 2).

We will use the 90-day transition period We will not use the 90-day transition period

If you have indicated above that you intend to use the 90-day transition period, please specify the first month and year3 in which you exceeded the month-end gross notional amount in accordance with paragraph 3(1)(c)(ii) of the Canadian Mandatory Clearing Rule:

Month/Year:

# Question 5: Clearing Agency Participants that have Clearing Participant Affiliates

***Instructions***: Only answer this question if you indicated in response to Question 1 above that you are a Clearing Agency Participant of one or more OTC RCAs identified in Question 1. Please make one of the representations below to indicate whether you have any Clearing Participant Affiliates.

We do have Clearing Participant Affiliates

We do not have any Clearing Participant Affiliates

If you do have Clearing Participant Affiliates, please list all such Clearing Participant Affiliates in the table below.4

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Full legal name of Clearing Participant Affiliate(s)*** | ***LEI/CICI/[Alternative Participant Affiliate(s)*** | ***Identifier]*** | ***of*** | ***Clearing*** |
|  |  |
|  |  |

# Question 6: Non-Canadian Local Counterparty

***Instructions:*** If you are a Non-Canadian Local Counterparty, please indicate below whether you intend to rely on substituted compliance in accordance with paragraph 3.(5) of the Canadian Mandatory Clearing Rule.

Non-Canadian Local Counterparty that will rely on substituted compliance Non-Canadian Local Counterparty that will not rely on substituted compliance

3 The earliest month specified should be April 2017.

4 Please use a separate sheet if additional space is needed to list all Clearing Participant Affiliates.

The undersigned agrees to notify the recipient of this letter in writing before or as soon as reasonably practicable following any of the statements made in this letter ceasing to be true. The recipient may rely on the statements made in this letter, unless and until the recipient receives written notification to the contrary from the undersigned.

# Executed and delivered with effect from:

Date:

[*Full name of Entity Completing Letter*]:

LEI/CICI/[Alternative Identifier5]:

Signature:

Name of signatory:

Title of signatory:

5 If you would like to include an alternative identifier, please describe the type of identifier provided.

# APPENDIX I

**TO CANADIAN CLEARING CLASSIFICATION LETTER DEFINED TERMS**

As used in the letter (including in this Appendix I), the words “affiliate” and “affiliated” shall be construed as provided in paragraphs 1.(2), 3.(01) and 3.(0.2) of the Canadian Mandatory Clearing Rule.

“***Canadian Mandatory Clearing Rule***” has the meaning given to it above on page 1 of this letter.

“***Clearing Agency Participant***” means any Participant of an OTC RCA, other than an Exempt Entity, that subscribes to clearing services for Mandatory Clearable Derivative(s).

“***Clearing Participant Affiliate***” means an affiliate, other than an Exempt Entity, of a Participant of an OTC RCA listed in Question 1 of this letter that subscribes to clearing services for Mandatory Clearable Derivative(s), where such affiliate had, for the months of March, April and May preceding the Reference Period in which the transaction is to be executed, an average month-end gross notional amount under all outstanding over-the-counter derivatives (as defined in the Canadian Mandatory Clearing Rule) exceeding CAD $1,000,000,000 (or such other amount specified in the future pursuant to an amendment, supplement or other revision to the Canadian Mandatory Clearing Rule), excluding derivatives eligible for the Intragroup Exemption.

“***Exempt Entity***” means (i) the government of Canada, the government of a jurisdiction of Canada or the government of a foreign jurisdiction; (ii) a crown corporation for which the government of the jurisdiction where the crown corporation was constituted is liable for all or substantially all the liabilities; (iii) a person or company wholly owned by one or more governments referred to in paragraph (i) of this definition of Exempt Entity if the government or governments are liable for all or substantially all the liabilities of the person or company; (iv) the Bank of Canada or a central bank of a foreign jurisdiction; (v) the Bank for International Settlements; and (vi) the International Monetary Fund.

“***Intragroup Exemption***” means the intragroup exemption from mandatory clearing provided for in section 7 of the Canadian Mandatory Clearing Rule.

“***Large Notional Counterparty***” means a Local Counterparty in any jurisdiction of Canada that (i) had, during the 12-month period prior to the intended execution of the transaction, a month-end gross notional amount under all outstanding over-the-counter derivatives (as defined in the Canadian Mandatory Clearing Rule), combined with each affiliated entity that is a Local Counterparty in any jurisdiction of Canada, exceeding CAD

$500,000,000,000 (or such other amount specified in the future pursuant to an amendment, supplement or other revision to the Canadian Mandatory Clearing Rule), excluding derivatives eligible for the Intragroup Exemption and (ii) had, for the months of March, April and May preceding the Reference Period in which the transaction is to be executed, an average month-end gross notional amount under all outstanding over-the- counter derivatives (as defined in the Canadian Mandatory Clearing Rule) exceeding CAD $1,000,000,000 (or such other amount specified in the future pursuant to an amendment, supplement or other revision to the Canadian Mandatory Clearing Rule), excluding derivatives eligible for the Intragroup Exemption.

“***Local Counterparty***” means a counterparty to a derivative if, at the time of execution of the transaction, either of the following applies:

1. the counterparty is a person or company, other than an individual, to which one or more of the following apply:
	1. the person or company is organized under the laws of the local jurisdiction;
	2. the head office of the person or company is in the local jurisdiction;
	3. the principal place of business of the person or company is in the local jurisdiction; or
2. the counterparty is an affiliated entity of a person or company referred to in paragraph (i) of this definition of Local Counterparty and the person or company is liable for all or substantially all the liabilities of the counterparty.

“***Mandatory Clearable Derivative***” means a derivative within a class of derivatives listed in Appendix A to the Canadian Mandatory Clearing Rule.

“***Non-Canadian Local Counterparty***” means an entity to which only paragraph (ii) of the definition of Local Counterparty applies.

“***OTC RCA***” means a Regulated Clearing Agency that offers clearing services in respect of Mandatory Clearable Derivatives.

“***Participant***” means a person or company that has entered into an agreement with a Regulated Clearing Agency to access the services of the Regulated Clearing Agency and is bound by the Regulated Clearing Agency’s rules and procedures.

“***Reference Period***” means the period beginning on September 1 in a given year and ending on August 31 of the following year.

“***Regulated Clearing Agency***” means,

1. in Alberta, New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan and Yukon, a person or company recognized or exempted from recognition as a clearing agency or clearing house pursuant to the securities legislation of any jurisdiction of Canada,
2. in British Columbia, Manitoba and Ontario, a person or company recognized or exempted from recognition as a clearing agency in the local jurisdiction, and
3. in Québec, a person recognized or exempted from recognition as a clearing house.