

ALBERTA SECURITIES COMMISSION

BLANKET ORDER 94-501

Citation: Re Exempting certain counterparties from mandatory clearing of derivatives, ,
2018 ABASC 85 Date: 20180528

Definitions

1. Terms defined in the *Securities Act* (Alberta) (the **Act**), in National Instrument 14-101 *Definitions* or in National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives* (**NI 94-101**) have the same meaning in this Blanket Order.

Background

2. Section 3(1) of NI 94-101 requires a local counterparty to a transaction in a mandatory clearable derivative to submit, or cause to be submitted, the mandatory clearable derivative to a regulated clearing agency that offers clearing services in respect of the mandatory clearable derivative (the **Clearing Requirement**), if one or more of the following applies to each counterparty:
 - (a) the counterparty
 - (i) is a participant of a regulated clearing agency that offers clearing services in respect of the mandatory clearable derivative, and
 - (ii) subscribes to clearing services for the class of derivatives to which the mandatory clearable derivative belongs;
 - (b) effective October 4, 2017, the counterparty
 - (i) is, at the date of the transaction in the mandatory clearable derivative, an affiliated entity of a participant referred to in paragraph (a), and
 - (ii) has had, at any time after the date on which NI 94-101 comes into force, a month-end gross notional amount under all outstanding derivatives exceeding \$1 000 000 000 excluding derivatives to which section 7(1)(a) of NI 94-101 applies;
 - (c) effective October 4, 2017, the counterparty
 - (i) is, at the date of the transaction in the mandatory clearable derivative, a local counterparty in any jurisdiction of Canada, other than a counterparty to which paragraph (b) applies, and

(ii) has had, at any time after the date on which NI 94-101 comes into force, a month-end gross notional amount under all outstanding derivatives, combined with each affiliated entity that is a local counterparty in any jurisdiction of Canada, exceeding \$500 000 000 000 excluding derivatives to which section 7(1)(a) of NI 94-101 applies.

3. On October 12, 2017 the Commission published for comment proposed amendments to NI 94-101 (the **Proposed Amendments**). The Commission is considering the comments received on the Proposed Amendments. If implemented, the Proposed Amendments would change the scope of application of the Clearing Requirement so that certain counterparties will not be subject to the Clearing Requirement under sections 3(1)(b) and (c) of NI 94-101.
4. Some counterparties that would have been subject to the Clearing Requirement effective October 4, 2017 may not be subject to the Clearing Requirement as a result of the Proposed Amendments. Therefore, exemptive relief is required.

Order

5. Considering that it would not be prejudicial to the public interest to do so, the Commission orders under section 213 of the Act that a counterparty to which section 3(1)(a) of NI 94-101 does not apply and that is required under section 3(1)(b) or (c) of NI 94-101 to clear a mandatory clearable derivative is exempt from that requirement.
6. The exemption under paragraph 5 of this Blanket Order is available in respect of a transaction in a mandatory clearable derivative that occurs on or before the earlier of
 - (a) the date on which this Blanket Order is revoked, and
 - (b) the date on which amendments that change the scope of the application of the Clearing Requirement under section 3(1)(b) or (c) of NI 94-101 come into effect.
7. This Blanket Order takes effect on August 20, 2018.

For the Commission:

“original signed by”

Tom Cotter
Vice-Chair

“original signed by”

Kari Horn
Vice-Chair