ANNEX E

COMPANION POLICY 96-101
TRADE REPOSITORIES AND DERIVATIVES DATA REPORTING

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PART 1
GENERAL COMMENTS

Introduction

This companion policy (the "Policy") provides guidance on how those members ("participating jurisdictions" or "we") of the Canadian Securities Administrators participating in Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting* (the "Instrument") interpret various matters in the Instrument.

Except for Part 1, the numbering and headings of Parts, sections and subsections in this Policy correspond to the numbering and headings in the Instrument. Any general guidance for a Part or section appears immediately after the Part or section name. Any specific guidance on a section or subsection follows any general guidance. If there is no guidance for a Part or section, the numbering in this Policy will skip to the next provision that does have guidance.

Unless defined in the Instrument or this Policy, terms used in the Instrument and in this Policy have the meaning given to them in securities legislation, including in National Instrument 14-101 *Definitions*.

Definitions and interpretation of terms in this Policy and in the Instrument

1. (1) In this Policy

"CPMI" means the Committee on Payments and Market Infrastructure;[1]

"FMI" means a financial market infrastructure, as described in the PFMI Report;

"Global LEI System" means the Global Legal Entity Identifier System;

"IOSCO" means the Technical Committee of the International Organization of Securities Commissions;

"ISDA methodology" means the methodology described in the Canadian Transaction Reporting Party Requirements issued by the International Swaps and Derivatives Association, Inc. and dated April 4, 2014;

"LEI" means a legal entity identifier;

"LEI ROC" means the LEI Regulatory Oversight Committee;

"PFMI Report" means the April 2012 final report entitled *Principles for financial market infrastructures* published by CPMI (formerly CPSS) and IOSCO, as amended from time to time;[2]

[1] Prior to September 1, 2014, CPMI was known as the Committee on Payment and Settlement Systems (CPSS).

"principle" means, unless the context otherwise indicates, a principle set out in the PFMI Report.

(2) The definition of asset class is not exclusive. Some types of derivatives may fall into additional asset classes.

(3) The definition of derivatives dealer in the instrument only applies in relation to the Instrument. A person or company that is a derivatives dealer for the purpose of the Instrument will not necessarily need to register as a dealer (or in any other registration category) and will not necessarily be subject to regulatory requirements applicable to derivatives dealers in other Instruments.

We consider the factors listed below to be relevant in determining whether a person or company is a derivatives dealer for the purpose of the Instrument:

- *intermediating transactions* – the person or company provides services relating to the intermediation of transactions between third-party counterparties to derivative contracts. This typically takes the form of the business commonly referred to as a broker;

- *acting as a market maker* – the person or company makes a market in a derivative or derivatives. The person or company routinely makes a two-way market in a derivative or category of derivatives or publishes quotes to buy and quotes to sell a derivatives position at the same time;

- *transacting with the intention of being compensated* – the person or company receives, or expects to receive, any form of compensation for carrying on derivatives transaction activity including compensation that is transaction or value based and including from spreads or built-in fees. It does not matter if the person or company actually receives compensation or what form the compensation takes. However, a person or company would not be considered to be a derivatives dealer solely by reason that it realizes a profit from changes in the market price for the derivative (or its underlying), regardless of whether the derivative was intended for the purpose of hedging or speculating;

- *directly or indirectly soliciting in relation to derivatives transactions* – the person or company contacts others to solicit derivatives transactions. Solicitation includes contacting someone by any means, including advertising that offers (i) derivatives transactions, (ii) participation in derivatives transactions or (iii) services relating to derivatives transactions. This includes advertising on the internet with the intention of encouraging transacting in derivatives by local persons or companies. A person or company might not be considered to be soliciting solely because it contacts a potential counterparty or a potential counterparty contacts them to inquire about a transaction in a derivative unless it is the person or company's intention or expectation to be compensated from the transaction. For example, a person or company that wishes to hedge a specific risk might not be considered to be soliciting for the purpose of the

[2] The PFMI Report is available on the Bank for International Settlements' website (www.bis.org) and the IOSCO website (www.iosco.org).

Instrument if they contacted multiple potential counterparties to inquire about potential derivatives transactions to hedge the risk;

- *transacting derivatives with individuals or small business* – the person or company transacts with or on behalf of persons or companies that are neither "permitted clients" as that term is defined in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registration Obligations* nor "qualified parties" as that term may be defined in applicable rules or orders in the securities legislation of the local jurisdiction, except where those persons or companies are represented by a registered dealer or adviser;

- *providing derivatives clearing services* – the person or company provides services to allow third parties, including counterparties to trades involving the person or company, to clear derivatives through a clearing agency. While these services do not directly relate to the execution of a transaction they are actions in furtherance of a trade conducted by a person or company that would typically be familiar with the derivatives market and would possess the necessary expertise to allow them to conduct trade reporting;

- *engaging in activities similar to a derivatives dealer* – the person or company sets up a business to carry out any activities related to transactions involving derivatives that would reasonably appear, to a third party, to be similar to the activities discussed above. This would not include the operator of a trading platform that is not registered or exempted from registration as a dealer, such as an exchange, or the operator of a clearing agency.

In determining whether or not they are a derivatives dealer for the purpose of the Instrument a person or company should consider their activities holistically. Generally, we would consider a person or company that engages in the activities referenced above in an organized and repetitive manner to be a derivatives dealer. Ad hoc or isolated activities may not necessarily result in a person or company being a derivatives dealer. For example if a person or company makes an effort to take a long and short position at the same time to manage business risk, it does not necessarily mean that the person or company is making a market. Similarly, organized and repetitive proprietary trading, in and of itself, absent other factors described above, may not result in a person or company being a derivatives dealer for the purpose of the Instrument.

To be a derivatives dealer in a jurisdiction a person or company must conduct the activities described above in that jurisdiction. Activities are considered to be conducted in a jurisdiction if the counterparty to the derivative is a local counterparty in the jurisdiction. A person or company does not need to have a physical location, staff or other presence in the local jurisdiction to be a derivatives dealer.

A person or company's primary business activity does not need to include the activities described above for the person or company to be a derivatives dealer for the purpose of the Instrument. Its primary business activity could be unrelated to any of the factors described above; however if it does meet any of these factors, it may be a derivatives dealer in the jurisdiction in which it engages in those activities.

A person or company is not a dealer for the purpose of the Instrument if they would be a dealer solely as a result of derivatives involving affiliated entities.

(4) A "life-cycle event" is defined in the Instrument as an event that results in a change to derivatives data previously reported to a recognized trade repository. Examples of a life-cycle event include:

- a change to the termination date for the derivative;
- a change in the cash flows, payment frequency, currency, numbering convention, spread, benchmark, reference entity or rates originally reported;
- the availability of an LEI for a counterparty previously identified by name or by some other identifier;
- a corporate action affecting a security or securities on which the derivative is based (e.g., a merger, dividend, stock split, or bankruptcy);
- a change to the notional amount of a derivative including contractually agreed upon changes (e.g., amortization schedule);
- the exercise of a right or option that is an element of the derivative;
- the satisfaction of a level, event, barrier or other condition contained in the derivative.

(5) We use the term "transaction" in the Instrument instead of the statutorily defined term "trade". The term "transaction" reflects that certain types of activities or events relating to a derivative, whether or not they constitute a "trade", must be reported as a unique derivative. The primary differences between the two definitions are that (i) the term "trade" as defined in securities legislation includes material amendments and terminations, whereas "transaction" as defined in the Instrument does not, and (ii) the term "transaction", as defined in the Instrument, includes a novation to a clearing agency, whereas "trade" as defined in securities legislation does not.

A material amendment to a derivative is not a "transaction" and is required to be reported as a life-cycle event under section 32. Similarly, a termination is not a "transaction", as the expiry or termination of a derivative is required to be reported as a life-cycle event under section 32.

In addition, the definition of "transaction" in the Instrument includes a novation to a clearing agency. The creation data resulting from a novation of a bilateral derivative to a clearing agency is required to be reported as a distinct derivative with reporting links to the original derivative.

(6) The term "valuation data" refers to data that reflects the current value of a derivative. We are of the view that valuation data can be calculated based upon the use of an industry-accepted methodology such as mark-to-market or mark-to-model, or another valuation method that is in

accordance with accounting principles and will result in a reasonable valuation of a derivative.[3] We expect that the methodology used to calculate valuation data that is reported with respect to a derivative would be consistent over the entire life of the derivative.

PART 2
TRADE REPOSITORY RECOGNITION AND ONGOING REQUIREMENTS

Part 2 sets out rules relating to the recognition of a trade repository by the local securities regulatory authority and establishes ongoing requirements for a recognized trade repository. To obtain and maintain recognition as a trade repository, a person or company must comply with these requirements and the terms and conditions in the recognition order made by the securities regulatory authority.

In order to comply with the reporting obligations contained in Part 3, a reporting counterparty to a derivative involving a local counterparty must report the derivative to a recognized trade repository. In some jurisdictions, securities legislation prohibits a person or company from carrying on business as a trade repository in the jurisdiction unless recognized as a trade repository by the securities regulatory authority.

The legal entity that applies to be a recognized trade repository will typically be the entity that operates the facility and collects and maintains records of derivatives data reported to the trade repository by other persons or companies. In some cases, the applicant may operate more than one trade repository. In such cases, the applicant may file separate forms in respect of each trade repository, or it may choose to file one form to cover all of its different trade repositories. If the latter alternative is chosen, the applicant must clearly identify the facility to which the information or any changes submitted under this Part of the Instrument apply.

Filing of initial information on application for recognition as a trade repository

2. In determining whether to recognize an applicant as a trade repository under securities legislation, we will consider a number of factors, including the following:

- whether it is in the public interest to recognize the trade repository;
- the manner in which the trade repository proposes to comply with the Instrument;
- whether the trade repository has meaningful representation as described in subsection 9(2) on its board of directors;
- whether the trade repository has sufficient financial and operational resources for the proper performance of its functions;

[3] For example, see International Financial Reporting Standard 13, *Fair Value Measurement*.

- whether the rules and procedures of the trade repository are reasonably designed to ensure that its business is conducted in an orderly manner that fosters both fair and efficient capital markets, and improves transparency in the derivatives market;

- whether the trade repository has policies and procedures to effectively identify and manage conflicts of interest arising from its operation and the services it provides;

- whether the requirements of the trade repository relating to access to its services are fair and reasonable;

- whether the trade repository's process for setting fees is fair, transparent and appropriate;

- whether the trade repository's fees are inequitably allocated among the participants, have the effect of creating barriers to access, or place an undue burden on any participant or class of participants;

- the manner and process for the securities regulatory authority and other applicable regulatory agencies to receive or access derivatives data, including the timing, type of reports, and any confidentiality restrictions;

- whether the trade repository has robust and comprehensive policies, procedures, processes and systems reasonably designed to ensure the security and confidentiality of derivatives data;

- for trade repositories that are not resident in the local jurisdiction, whether the securities regulatory authority has entered into a memorandum of understanding with the relevant regulatory authority in the trade repository's local jurisdiction;

- whether the trade repository has been, or will be, in compliance with securities legislation, including compliance with the Instrument and any terms and conditions attached to the recognition order in respect of the trade repository.

A trade repository that is applying for recognition must demonstrate that it has established, implemented and maintains and enforces appropriate written rules, policies and procedures that are in accordance with standards applicable to trade repositories. In assessing these rules, policies and procedures we will consider, among other things, the principles and key considerations and explanatory notes applicable to trade repositories in the PFMI Report. These principles are set out in the following chart, along with the corresponding sections of the Instrument.

Principle in the PFMI Report applicable to a trade repository	***Relevant section(s) of the Instrument***
Principle 1: Legal basis	Section 7 – Legal framework Section 17 – Rules, policies, and procedures (in part)

Principle in the PFMI Report applicable to a trade repository	***Relevant section(s) of the Instrument***
Principle 2: Governance	Section 8 – Governance Section 9 – Board of directors Section 10 – Management
Principle 3: Framework for the comprehensive management of risks	Section 19 – Comprehensive risk-management framework Section 20 – General business risk (in part)
Principle 15: General business risk	Section 20 – General business risk
Principle 17: Operational risk	Section 21 – System and other operational risk requirements Section 22 – Data security and confidentiality Section 24 – Outsourcing
Principle 18: Access and participation requirements	Section 13 – Access to recognized trade repository services Section 16 – Due process (in part) Section 17 – Rules, policies and procedures (in part)
Principle 19: Tiered participation arrangements	No equivalent provisions in the Instrument; however, the trade repository may be expected to observe or broadly observe the principle, where applicable.
Principle 20: FMI links	No equivalent provisions in the Instrument; however, the trade repository may be expected to observe or broadly observe the principle, where applicable.
Principle 21: Efficiency and effectiveness	No equivalent provisions in the Instrument; however, the trade repository may be expected to observe or broadly observe the principle, where applicable.
Principle 22: Communication procedures and standards	Section 15 – Communication policies, procedures and standards
Principle 23: Disclosure of rules, key procedures, and market data	Section 17 – Rules, policies and procedures (in part)
Principle 24: Disclosure of market data by trade repositories	Sections in Part 4 – Data Dissemination and Access to Data

We anticipate that the regulator in each participating jurisdiction will consider the principles in conducting its oversight activities of a recognized trade repository. Similarly, we will expect that

recognized trade repositories observe the principles in complying with the Instrument and the terms of its recognition order.

We anticipate that certain information included in the forms filed by an applicant or recognized trade repository under the Instrument will be kept confidential to the extent permitted in the local jurisdiction where this content contains proprietary financial, commercial and technical information. We are of the view that the cost and potential risks to the filers of disclosure of such information may outweigh the benefit of the principle requiring that forms be made available for public inspection. However, we would expect a recognized trade repository to disclose its responses to the CPSS-IOSCO consultative report entitled *Disclosure framework for financial market infrastructures*,[4] which is a supplement to the PFMI Report. Other information included in the filed forms will be required to be made publicly available by a recognized trade repository in accordance with the Instrument or the terms and conditions of the recognition order imposed by a securities regulatory authority.

While we generally expect to keep the information contained in a filed Form 96-101F1 *Application for Recognition – Trade Repository Information Statement* and any amendments to such information confidential, if a regulator or securities regulatory authority considers that it is in the public interest to do so, it may require the applicant or recognized trade repository to disclose a summary of the information contained in the form, or in any amendments to the information in the filed Form 96-101F1.

Notwithstanding the confidential nature of the forms, we anticipate that an applicant's application itself (excluding forms) will be published for comment for a minimum period of 30 days.

(2) A person or company applying for recognition as a trade repository whose head office or principal place of business is located in a foreign jurisdiction will typically be required to provide additional information to allow us to evaluate a trade repository's application, including

- an undertaking to provide the regulator or securities regulatory authority with access to its books and records and to submit to onsite inspection and examination by the regulator or securities regulatory authority, and

- an opinion of legal counsel addressed to the regulator or securities regulatory authority that the person or company has the power and authority to provide the regulator or securities regulatory authority with access to the person or company's books and records, and to submit to onsite inspection and examination by the regulator or securities regulatory authority.

[4] Publication available on the BIS website (www.bis.org) and the IOSCO website (www.iosco.org).

Change in information by a recognized trade repository

3. A participating jurisdiction with which an amendment to the information provided in Form 96-101F1 *Application for Recognition – Trade Repository Information Statement* is filed will endeavour to review such amendment in accordance with subsections 3(1) and 3(2) before the proposed implementation date for the change. However, where the changes are complex, raise regulatory concerns, or when additional information is required, this review may exceed these timeframes.

(1) We would consider a change to be significant when it could impact a recognized trade repository, its users, participants, market participants, investors, or the capital markets (including derivatives markets and the markets for assets underlying a derivative). We would generally consider a significant change to include, but not be limited to, the following:

- a change in the structure of the recognized trade repository, including procedures governing how derivatives data is collected and maintained (including in any back-up sites), that has or may have a direct impact on users in a local jurisdiction;

- a change to the services provided by the recognized trade repository, or a change that affects the services provided, including the hours of operation, that has or may have a direct impact on users in a local jurisdiction;

- a change to means of access to the recognized trade repository's facility and its services, including changes to data formats or protocols, that has or may have a direct impact on users in a local jurisdiction;

- a change to the types of derivative asset classes or categories of derivatives that may be reported to the recognized trade repository;

- a change to the systems and technology used by the recognized trade repository that collect, maintain and disseminate derivatives data, including matters affecting capacity;

- a change to the governance of the recognized trade repository, including changes to the structure of its board of directors or board committees and their related mandates;

- a change in control of the recognized trade repository;

- a change in entities that provide key services or systems to, or on behalf of, the recognized trade repository;

- a change to outsourcing arrangements for key services or systems of the recognized trade repository;

- a change to fees or the fee structure of the recognized trade repository;

- a change in the recognized trade repository's policies and procedures relating to risk-management, including relating to business continuity and data security, that has or may have an impact on the recognized trade repository's provision of services to its participants;

- the commencement of a new type of business activity, either directly or indirectly through an affiliated entity;

- a change in the location of the recognized trade repository's head office or primary place of business or the location where the main data servers or contingency sites are housed.

(2) We will generally consider a change in a recognized trade repository's fees or fee structure to be a significant change. However, we acknowledge that recognized trade repositories may frequently change their fees or fee structure and may need to implement fee changes within timeframes that are shorter than the 45-day notice period contemplated in subsection 3(1). To facilitate this process, subsection 3(2) provides that a recognized trade repository may provide information that describes the change to fees or fee structure in a shorter timeframe (at least 15 days before the expected implementation date of the change to fees or fee structure) than is provided for another type of significant change. See section 12 of this Policy for guidance with respect to fee requirements applicable to recognized trade repositories.

(3) Subsection 3(3) sets out the filing requirements for changes to information provided in a filed Form 96-101F1 *Application for Recognition – Trade Repository Information Statement* other than those described in subsections 3(1) or (2). Such changes to information are not considered significant and include the following:

- changes that would not have an impact on the recognized trade repository's structure or participants, or more broadly on market participants, investors or the capital markets;

- changes in the routine processes, policies, practices, or administration of the recognized trade repository that would not impact participants;

- changes due to standardization of terminology;

- corrections of spelling or typographical errors;

- changes to the types of participants of a recognized trade repository that are in a local jurisdiction;

- necessary changes to conform to applicable regulatory or other legal requirements of a jurisdiction of Canada;

- minor system or technology changes that would not significantly impact the system or its capacity.

The participating jurisdictions may review filings under subsection 3(3) to ascertain whether the changes have been categorized appropriately. If the securities regulatory authority disagrees with the categorization, the recognized trade repository will be notified in writing. Where the securities regulatory authority determines that changes reported under subsection 3(3) are in fact significant changes under subsection 3(1), the recognized trade repository will be required to file an amendment to Form 96-101F1 that will be subject to review by the securities regulatory authority.

Ceasing to carry on business

6. (1) In addition to filing a completed Form 96-101F3 *Cessation of Operations Report for Recognized Trade Repository*, a recognized trade repository that intends to cease carrying on business in the local jurisdiction as a recognized trade repository must make an application to voluntarily surrender its recognition to the securities regulatory authority pursuant to securities legislation. The securities regulatory authority may accept the voluntary surrender subject to terms and conditions.[5]

Legal framework

7. (1) We would generally expect a recognized trade repository to have rules, policies, and procedures in place that provide a legal basis for their activities in all relevant jurisdictions where they have activities, whether within Canada or any foreign jurisdiction.

Governance

8. (3) We expect that interested parties will be able to locate the governance information required by subsections 8(1) and 8(2) through a web search or through clearly identified links on the recognized trade repository's website.

Board of directors

9. The board of directors of a recognized trade repository is subject to various requirements, such as requirements pertaining to board composition and conflicts of interest. To the extent that a recognized trade repository is not organized as a corporation, the requirements relating to the board of directors may be fulfilled by a body that performs functions that are equivalent to the functions of a board of directors.

(2) Paragraph 9(2)(a) requires individuals who comprise the board of directors of a recognized trade repository to have an appropriate level of skill and experience to effectively oversee the management of its operations. This would include individuals with experience and skills in areas such as business recovery, contingency planning, financial market systems and data management.

[5] This will apply in those jurisdictions where securities legislation provides the securities regulatory authority with the power to impose terms and conditions on an application for voluntary surrender. The transfer of derivatives data/information can be addressed through the terms and conditions imposed by the securities regulatory authority on such application.

Under paragraph 9(2)(b), the board of directors of a recognized trade repository must include individuals who are independent of the recognized trade repository. We generally consider individuals who have no direct or indirect material relationship with the recognized trade repository as independent. We expect that independent directors of a recognized trade repository would represent the public interest by ensuring that regulatory and public transparency objectives are fulfilled, and that the interests of participants who are not derivatives dealers are considered.

Chief compliance officer

11. (1) Subsection 11(1) is not intended to prevent management from hiring the chief compliance officer, but instead requires the Board to approve the appointment.

(3) References to harm to the capital markets in subsection 11(3) may be in relation to domestic or international capital markets.

Fees

12. We would generally expect a recognized trade repository's fees and costs to be fairly and equitably allocated among participants. We anticipate that the relevant securities regulatory authority will consider fees when assessing an application for recognition by a trade repository and may review changes in fees proposed by recognized trade repositories. In analyzing fees, we anticipate considering a number of factors, including the following:

- the number and complexity of the derivatives being reported;
- the amount of the fee or cost imposed relative to the cost of providing the services;
- the amount of fees or costs charged by other comparable trade repositories, where relevant, to report similar derivatives in the market;
- with respect to market data fees and costs, the amount of market data fees charged relative to the market share of the recognized trade repository;
- whether the fees or costs represent a barrier to accessing the services of the recognized trade repository for any category of participant.

A recognized trade repository should provide clear descriptions of priced services for comparability purposes. Other than fees for individual services, a recognized trade repository should also disclose costs and other fees related to connecting to or accessing the trade repository. For example, a recognized trade repository should disclose information on the system design, as well as technology and communication procedures, that influence the costs of using the recognized trade repository. A recognized trade repository is also expected to provide timely notice to participants and the public of any changes to services and fees.

Access to recognized trade repository services

13. (3) Under subsection 13(3), a recognized trade repository is prohibited from unreasonably preventing, conditioning or limiting access to its services, unreasonably discriminating between its participants, imposing unreasonable barriers to competition or requiring the use or purchase of another service in order for a person or company to utilize its trade reporting service. A recognized trade repository should not engage in anti-competitive practices such as setting overly restrictive terms of use or engaging in anti-competitive price discrimination. A recognized trade repository should not develop closed, proprietary interfaces that result in vendor lock-in or barriers to entry with respect to competing service providers that rely on the data maintained by the recognized trade repository. As an example, a recognized trade repository that is affiliated with a clearing agency must not impose barriers that would make it difficult for a competing clearing agency to report derivatives data to the recognized trade repository.

Acceptance of reporting

14. Section 14 requires that a recognized trade repository accept derivatives data for all derivatives of the asset class or classes set out in its recognition order. For example, if the recognition order of a recognized trade repository includes interest rate derivatives, the recognized trade repository is required to accept derivatives data for all types of interest rate derivatives that are entered into by a local counterparty. It is possible that a recognized trade repository may accept derivatives data for only a subset of a class of derivatives if this is indicated in its recognition order. For example, there may be recognized trade repositories that accept derivatives data for only certain types of commodity derivatives, such as energy derivatives.

Communication policies, procedures and standards

15. Section 15 sets out the communication standard required to be used by a recognized trade repository in communications with other specified entities. The reference in paragraph 15(d) to "service providers" may include persons or companies who offer technological or transaction processing or post-transaction services.

Due process

16. Section 16 imposes a requirement that a recognized trade repository provide participants or applicants with an opportunity to be heard before making a decision that directly and adversely affects the participant or applicant. We would generally expect that a recognized trade repository would meet this requirement by conducting a hearing or by allowing the participant or applicant to make representations in any form.

Rules, policies and procedures

17. The rules, policies and procedures of a recognized trade repository should be clear and comprehensive, and include explanatory material written in plain language so that participants can fully understand the system's design and operations, their rights and obligations, and the

risks of participating in the system. Moreover, a recognized trade repository should disclose, to its participants and to the public, basic operational information and responses to the *FMI disclosure template* in Annex A of the CPSS-IOSCO report *Principles for financial market infrastructures: Disclosure framework and assessment methodology*, published December 2012.

We anticipate that participating jurisdictions may develop and implement a protocol with the recognized trade repository that will set out the procedures to be followed with respect to the review and approval of rules, policies and procedures and any amendments thereto. Such a protocol may be appended to and form part of the recognition order. Depending on the nature of the changes to the recognized trade repository's rules, policies and procedures, such changes may also impact the information contained in Form 96-101F1 *Application for Recognition – Trade Repository Information Statement*. In such cases, the recognized trade repository will be required to file an amendment to Form 96-101F1 with the securities regulatory authority. See section 3 of this Policy for a discussion of filing requirements. We anticipate that requirements relating to the review and approval of rules, policies, and procedures and any amendments thereto will be described in the order of the securities regulatory authority recognizing the trade repository.

(3) Subsection 17(3) requires that a recognized trade repository monitor compliance with its rules, policies and procedures. The methodology of monitoring such compliance should be fully documented.

(4) The processes implemented by a recognized trade repository for dealing with a participant's non-compliance with its rules, policies and procedures do not preclude enforcement action by any other person or company, including a securities regulatory authority or other regulatory body.

Records of data reported

18. A recognized trade repository may be subject to record-keeping requirements under securities legislation that are in addition to those under section 18 of the Instrument.

(2) The requirement to maintain records for 7 years after the expiration or termination of a derivative, rather than from the date of the transaction, reflects the fact that derivatives create ongoing obligations and that information is subject to change throughout the life of a derivative.

Comprehensive risk-management framework

19. Section 19 requires that a recognized trade repository have a comprehensive risk-management framework. Set out below are some of our expectations for a recognized trade repository to be able to demonstrate that it meets that requirement.

Features of the framework

We would generally expect that a recognized trade repository would have a written risk-management framework (including policies, procedures and systems) that enables it to identify,

measure, monitor, and manage effectively the range of risks that arise in, or are borne by, the recognized trade repository. A recognized trade repository's framework should include the identification and management of risks that could materially affect its ability to perform or to provide services as expected, such as interdependencies.

Establishing a framework

A recognized trade repository should have comprehensive internal processes to help its board of directors and senior management monitor and assess the adequacy and effectiveness of its risk-management policies, procedures, systems and controls. These processes should be fully documented and readily available to the recognized trade repository's personnel who are responsible for implementing them.

Maintaining a framework

We would generally expect that a recognized trade repository would regularly review the material risks it bears from, and poses to, other entities (such as other FMIs, settlement banks, liquidity providers or service providers) as a result of interdependencies, and develop appropriate risk-management tools to address these risks. These tools should include business continuity arrangements that allow for rapid recovery and resumption of critical operations and services in the event of operational disruptions and recovery or orderly wind-down plans should the trade repository become non-viable.

General business risk

20. (1) We consider general business risk to include any potential impairment of the recognized trade repository's financial position (as a business concern) as a consequence of a decline in its revenues or an increase in its expenses, such that expenses exceed revenues and result in a loss that must be charged against capital or an inadequacy of resources necessary to carry on business as a recognized trade repository.

(2) For the purpose of subsection 20(2), the amount of liquid net assets funded by equity that a recognized trade repository should hold is to be determined by its general business risk profile and the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services, if such action is taken.

(4) The scenarios identified under subsection 20(4) should take into account the various independent and related risks to which the recognized trade repository is exposed.

(5) Plans for the recovery or orderly wind-down of a recognized trade repository should contain, among other elements, a substantive summary of the key recovery or orderly wind-down strategies, the identification of the recognized trade repository's critical operations and services, and a description of the measures needed to implement the key strategies. The recognized trade repository should maintain the plan on an ongoing basis, to achieve recovery and orderly wind-down, and should hold sufficient liquid net assets funded by equity to implement this plan. A recognized trade repository should also take into consideration the operational, technological and

legal requirements for participants to establish and move to an alternative arrangement in the event of an orderly wind-down.

Systems and other operational risk requirements

21. (1) Subsection 21(1) sets out a general principle concerning the management of operational risk. In interpreting subsection 21(1), the following key considerations should be applied:

- a recognized trade repository should establish a robust operational risk-management framework with appropriate systems, policies, procedures, and controls to identify, monitor and manage operational risks;

- a recognized trade repository should review, audit and test systems, operational policies, procedures and controls, periodically and after any significant changes;

- a recognized trade repository should have clearly defined operational-reliability objectives and policies in place that are designed to achieve those objectives.

(2) The board of directors of a recognized trade repository should clearly define the roles and responsibilities for addressing operational risk.

(3) An adequate system of internal control over systems as well as adequate general information-technology controls are to be implemented to support information technology planning, acquisition, development and maintenance, computer operations, information systems support and security. Recommended Canadian guides as to what constitutes adequate information technology controls include '*Information Technology Control Guidelines*' from the Canadian Institute of Chartered Accountants and '*COBIT*' from the IT Governance Institute. A recognized trade repository should ensure that its information-technology controls address the integrity of the data that it maintains, by protecting all derivatives data submitted from corruption, loss, improper disclosure, unauthorized access and other processing risks.

Paragraph 21(3)(b) requires a recognized trade repository to thoroughly assess future needs and make systems capacity and performance estimates in a method consistent with prudent business practice at least once a year. This paragraph also imposes an annual requirement for recognized trade repositories to conduct periodic capacity stress tests. Continual changes in technology, risk management requirements and competitive pressures will often result in these activities or tests being carried out more frequently.

Paragraph 21(3)(c) requires a recognized trade repository to notify the securities regulatory authority of any material systems failure. A failure, malfunction, delay or other disruptive incident would be considered "material" if the recognized trade repository would in the normal course of its operations escalate the incident to, or inform, its senior management that is responsible for technology, or if the incident would have an impact on participants. We also expect that, as part of this notification, the recognized trade repository will provide updates on the status of the failure, the resumption of service, and the results of its internal review of the failure.

(4) We are generally of the view that disaster recovery plans should allow the recognized trade repository to provide continuous and undisrupted service, as back-up systems ideally should commence processing immediately. Where a disruption is unavoidable, a recognized trade repository is expected to provide prompt recovery of operations, meaning that it resumes operations within 2 hours following the disruptive event. Under paragraph 21(4)(c), an emergency event could include any external sources of operational risk, such as the failure of critical service providers or utilities or events affecting a wide metropolitan area, such as natural disasters, terrorism, and pandemics. Business continuity planning should encompass all policies and procedures to ensure uninterrupted provision of key services regardless of the cause of potential disruption.

(5) We expect that a recognized trade repository will engage relevant industry participants, as necessary, in tests of its business continuity plans, including testing of back-up facilities for both the recognized trade repository and its participants.

(6) For the purpose of subsection 21(6), a qualified party is a person or company or a group of persons or companies with relevant experience in both information technology and in the evaluation of related internal controls in a complex information technology environment, such as external auditors or third party information system consultants. We would generally consider that this obligation could be satisfied by an independent assessment by an internal audit department that is compliant with the International Standards for the Professional Practice of Internal Auditing published by the Institute of Internal Audit. Before engaging a qualified party, the recognized trade repository should notify each relevant securities regulatory authority.

(8) In determining what a reasonable period is to allow participants to make system modifications and test their modified systems, a recognized trade repository should consult with its participants and allow all participants a reasonable opportunity to develop, implement and test systems changes. We expect that the needs of all types of participants would be considered, including those of smaller and less sophisticated participants.

(9) In determining what a reasonable period is to allow participants to test their modified systems and interfaces with the recognized trade repository, we would generally expect a recognized trade repository to consult with its participants. We consider a reasonable period to be a period that would provide all participants a reasonable opportunity to develop, implement and test systems changes. We expect that the needs of all types of participants would be considered, including those of smaller and less sophisticated participants.

Data security and confidentiality

22. **(1)** Rules, policies and procedures to ensure the safety, privacy and confidentiality of derivatives data must include limitations on access to confidential data held by the trade repository, including derivatives data, and safeguards to protect against persons and companies affiliated with a recognized trade repository from using trade repository data for their personal benefit or the benefit of others.

(2) The purpose of subsection 22(2) is to ensure that users of a recognized trade repository have some measure of control over their derivatives data.

Confirmation of data and information

23. The purpose of the confirmation requirement in subsection 23(1) is to ensure that the reported information accurately describes the derivative as agreed to by both counterparties.

In cases where the non-reporting counterparty to a derivative is not a participant of the recognized trade repository to which the derivatives data is reported, the recognized trade repository would not be in a position to allow non-participants to confirm the accuracy of the derivatives data. As such, subsection 23(2) provides that a recognized trade repository is not obligated to allow non-participants to confirm the accuracy of derivatives data reported to it under the Instrument.

A recognized trade repository may satisfy its obligation under section 23 by notice to each counterparty to the derivative that is a participant of the recognized trade repository, or its delegated third-party representative where applicable, that a report has been made naming the participant as a counterparty to a derivative, accompanied by a means of accessing a report of the derivatives data submitted. The policies and procedures of the recognized trade repository may provide that if the recognized trade repository does not receive a response from a counterparty within 48 hours, the counterparty is deemed to confirm the derivatives data as reported.

Outsourcing

24. Section 24 sets out requirements applicable to a recognized trade repository that outsources any of its material services or systems to a service provider. Generally, a recognized trade repository must establish policies and procedures to evaluate and approve these outsourcing arrangements, including assessing the suitability of potential service providers and the ability of the recognized trade repository to continue to comply with securities legislation in the event of bankruptcy, insolvency or the termination of business of the service provider. A recognized trade repository is also required to monitor the ongoing performance of a service provider to which it outsources a key service, system or facility. The requirements under section 24 apply regardless of whether an outsourcing arrangement is with a third-party service provider or an affiliated entity of the recognized trade repository. A recognized trade repository that outsources any of its material services or systems remains responsible for those services or systems and for compliance with securities legislation.

PART 3
DATA REPORTING

Part 3 deals with reporting obligations for a derivative that involves a local counterparty and includes a determination of which counterparty to the derivative will be subject to the duty to report, requirements as to the timing of reports and a description of the data that is required to be reported.

Reporting counterparty

25. Section 25 sets out a process for determining which counterparty to a derivative is the reporting counterparty and is therefore required to fulfil the reporting obligations under the Instrument.

(1) The hierarchy outlined in subsection 25(1) for determining which counterparty to a derivative will be the reporting counterparty is intended to reflect the counterparty to the derivative that is best suited to fulfill the reporting obligation. For example, for a derivative that is cleared through a clearing agency, the clearing agency is best positioned to report derivatives data and is therefore the reporting counterparty.

The definition of "derivatives dealer" in the Instrument does not require that a person or company be registered with the local securities regulatory authority in order to meet the definition. Accordingly, where the reporting counterparty to a derivative is a derivatives dealer, as defined in the Instrument, the reporting obligations with respect to the derivative apply irrespective of whether the derivatives dealer is a registrant in the local jurisdiction. See the guidance in section 1(2) with respect to the factors to be considered to determine whether a person or company is a derivatives dealer for the purpose of the Instrument. A person or company that meets the definition of "derivatives dealer" in the local jurisdiction would be a derivatives dealer for the purpose of the Instrument, even if it is exempted or excluded from the requirement to register.

Agreement between the counterparties

For a derivative that is not cleared and is between two derivatives dealers or two end-users – that is, a derivative to which paragraphs 25(1)(a) and (b) do not apply – paragraph 25(1)(c) allows the counterparties to agree, in writing, at or before the time the transaction occurs, which counterparty will act as the reporting counterparty for the derivative. The intention of paragraph 25(1)(c) is to facilitate single counterparty reporting while requiring both counterparties to have procedures or contractual arrangements in place to ensure that reporting occurs.

One example of a type of agreement the counterparties may use to determine the reporting counterparty to a derivative is the ISDA methodology, publicly available at www.isda.org, developed for derivatives in Canada in order to facilitate one-sided derivative reporting and to provide a consistent method for determining the party required to act as reporting counterparty.

There is no requirement for counterparties to a derivative to use the ISDA methodology. However, in order for the counterparties to rely on paragraph 25(1)(c), the agreement must meet the conditions in paragraph 25(1)(c). Namely, the agreement must be in written form, have been made at the time of the derivative, and identify the reporting counterparty with respect to the derivative.

(2) Each local counterparty that relies on paragraph 25(1)(c) must fulfil the record-keeping obligations set out in subsection 25(2).

(4) Subsection (4) provides that a local counterparty that agrees to be the reporting counterparty for a derivative under paragraph 25(1)(c) must fulfil all reporting obligations as the reporting counterparty in relation to that derivative even if that local counterparty would otherwise be excluded from the trade reporting obligation under section 40.

Duty to report

26. Section 26 outlines the duty to report derivatives data.

A reporting counterparty may delegate its reporting obligations to a third-party, including a third-party service provider. This includes reporting of initial creation data, life-cycle event data and valuation data. Where reporting obligations are delegated to a third-party, the reporting counterparty remains liable for any failure to comply with applicable requirements under the instruments.

(2) We would generally expect that reports for derivatives that are not accepted for reporting by any recognized trade repository would be electronically submitted to the local securities regulatory authority in accordance with the guidance provided by the local securities regulatory authority.

(3) Subsection 26(3) provides for limited substituted compliance in two circumstances.

The first circumstance is where a counterparty to a derivative is organized under the laws of the local jurisdiction but does not conduct business in the jurisdiction other than activities incidental to being organized in the jurisdiction.

We are of the view that factors that would indicate that a person or company is conducting business in the jurisdiction would include the following:

- having a physical location in a jurisdiction;
- having employees or agents that reside in the jurisdiction;
- generating revenue in the jurisdiction;
- having customers or clients in the jurisdiction.

We are also of the view that activities that are incidental to being organized under the law of a jurisdiction would include instructing legal counsel to file materials with the government agency responsible for registering corporations and maintaining a local agent for service of legal documents.

The second circumstance is where the derivative involves a local counterparty that is a local counterparty solely on the basis that it is an affiliated entity of a person or company, other than an individual, that is organized in the local jurisdiction or has its head office and principal place

of business in the local jurisdiction, and that person or company is liable for all or substantially all of the liabilities of the affiliated entity.

In each instance, the counterparties can benefit from substituted compliance where the derivatives data has been reported to a recognized trade repository pursuant to the laws of a province of Canada other than the local jurisdiction, provided that the additional conditions set out in paragraph 26(3)(c) are satisfied. We anticipate that the concept of substituted compliance will be expanded to include situations where reports are made under requirements in foreign jurisdictions that have derivative transaction reporting requirements that are similar to those in the Instrument. We anticipate that amendments to the rule that will extend substituted compliance to foreign jurisdictions will be implemented before the implementation of reporting requirements under the Instrument.

(4) Subsection 26(4) requires that all derivatives data reported for a given derivative be reported to the same recognized trade repository to which the initial report is submitted or, with respect to derivatives data reported under subsection 26(2), to the local securities regulatory authority.

For a bi-lateral derivative that is cleared by a clearing agency (novation), the recognized trade repository to which all derivatives data must be reported is the recognized trade repository to which the original bi-lateral derivative was reported.

The purpose of this requirement is to ensure the securities regulatory authority has access to all reported derivatives data for a particular derivative and its related transaction from the same entity. It is not intended to restrict counterparties' ability to report to multiple trade repositories.

(6) We interpret the requirement in subsection 26(6), to report errors or omissions in derivatives data "as soon as practicable" after it is discovered, to mean upon discovery and in any case no later than the end of the business day on which the error or omission is discovered.

(7) Under subsection 26(7), where a local counterparty that is not a reporting counterparty discovers an error or omission in respect of derivatives data that is reported to a recognized trade repository, such local counterparty has an obligation to report the error or omission to the reporting counterparty for the derivative. Once an error or omission is reported by the local counterparty to the reporting counterparty, the reporting counterparty then has an obligation under subsection 26(6) to report the error or omission to the recognized trade repository or to the securities regulatory authority in accordance with subsection 26(2). We interpret the requirement in subsection 26(7) to notify the reporting counterparty of errors or omissions in derivatives data to mean upon discovery and in any case no later than the end of the business day on which the error or omission is discovered.

Legal entity identifiers

28. The Global LEI System is a G20 endorsed initiative[6] for uniquely identifying parties to financial transactions, designed and implemented under the direction of the LEI ROC, a

[6] For more information see FSB Report A Global Legal Entity Identifier for Financial Markets, June 8, 2012, online: Financial Stability Board <http://www.financialstabilityboard.org/publications/>.

governance body endorsed by the G20. The Global LEI System serves as a public-good utility responsible for overseeing the issuance of legal entity identifiers globally to counterparties who enter into derivatives or that are involved in a derivatives transaction.

(3) If the Global LEI System is not available at the time a reporting counterparty is required under the Instrument to report derivatives data, including the LEI for each counterparty, with respect to the derivative, a counterparty should use a substitute legal entity identifier. The substitute legal entity identifier should be set in accordance with the standards established by the LEI ROC for pre-LEIs identifiers. At the time the Global LEI System is operational, counterparties should cease using their substitute LEI and commence reporting their LEI. The substitute LEI and LEI might be identical.

Unique transaction identifiers

29. A unique transaction identifier is used to identify a derivative and the transaction relating to that derivative from the perspective of all counterparties to the transaction. For example, both counterparties to a single derivative would identify the derivative and its related transaction by the same single identifier. For a derivative that is novated to a clearing agency, the reporting of the novated derivatives should reference the unique transaction identifier of the original bi-lateral derivative.

The Instrument imposes an obligation on the recognized trade repository to identify each derivative and its related transaction by means of a unique transaction identifier. This does not preclude the trade repository from incorporating a unique transaction identifier provided by the reporting counterparty or using a unique transaction identifier provided by the reporting counterparty where such an identifier meets industry standards or would otherwise reasonably be expected to be both unique and to appropriately identify the derivatives and its related transaction.

Unique product identifiers

30. Section 30 requires that a reporting counterparty identify each derivative that is subject to the reporting obligation under the Instrument by means of a unique product identifier. The unique product identifier identifies the sub-type of derivative within the asset class to which the derivative belongs. There are currently systems of product taxonomy that may be used for this purpose.[7] To the extent that a unique product identifier is not available for a particular derivative type or sub-type, a reporting counterparty would be required to create one using an alternative methodology.

Creation data

31. (1) Subsection 31(1) requires that reporting of creation data be made immediately after a transaction occurs, which means that creation data should be reported as soon as technologically practicable after the execution of a transaction. In evaluating what will be considered to be "technologically practicable", we will take into account the prevalence of implementation and

[7] See e.g., <http://www2.isda.org/identifiers-and-otc-taxonomies/> for more information.

use of technology by comparable counterparties located in Canada and in foreign jurisdictions. The participating jurisdictions may also conduct independent reviews to determine the state of reporting technology.

(2) Subsection 31(2) is intended to take into account the fact that not all counterparties will have the same technological capabilities. For example, counterparties that do not regularly engage in derivatives would, at least in the near term, likely not be as well situated to achieve real-time reporting. Further, for certain post-transaction operations that result in reportable derivatives, such as trade compressions involving numerous derivatives, immediate reporting may not currently be practicable. In all cases, the outside limit for reporting is the end of the business day following execution of the transaction.

Life-cycle event data

32. (1) When reporting a life-cycle event, there is no obligation to re-report derivatives data that has not changed other than the unique transaction identifier as required by subsection 27(2) – only new data and changes to previously reported data need to be reported. Life-cycle event data is not required to be reported immediately but rather at the end of the business day on which the life-cycle event occurs. The end of business day report may include multiple life-cycle events that occurred on that day.

Valuation data

33. (1) Subsection 33(1) provides for differing frequency of valuation data reporting based on the type of entity that is the reporting counterparty.

Pre-existing derivatives

34. (3) The derivatives data required to be reported for pre-existing derivatives under section 34 is substantively the same as the requirement under CFTC Rule 17 CFR Part 46 *Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps*. Therefore, to the extent that a reporting counterparty has reported pre-existing derivatives data as required by the CFTC rule, this would meet the derivatives data reporting requirements under section 34. This interpretation applies only to pre-existing derivatives.

Only the data indicated in the column entitled “Required for Pre-existing Derivatives” in Appendix A is required to be reported for pre-existing derivatives.

(4) Subsection 4 imposes an obligation on a reporting counterparty to commence reporting life-cycle event data for a pre-existing derivative immediately after it has reported the creation data relating to the derivative in accordance with this section. Life-cycle event data should be reported in accordance with the requirements in section 32.

(5) Subsection (5) imposes an obligation on a reporting counterparty to commence reporting valuation data for a pre-existing derivative immediately after it has reported the creation data

relating to the derivative in accordance with this section. Valuation data should be reported in accordance with the requirements in section 33.

PART 4
DATA DISSEMINATION AND ACCESS TO DATA

Data available to regulators

37. The derivatives data covered by this section is data necessary to carry out the securities regulatory authority's mandate to protect against unfair, improper or fraudulent practices, to foster fair and efficient capital markets, to promote confidence in the capital markets, and to address systemic risk. This includes derivatives data with respect to any derivative or derivatives that may impact capital markets in Canada.

Derivatives that reference an underlying asset or class of assets with a nexus to a jurisdiction in Canada can impact capital markets in Canada even if the counterparties to the derivative are not local counterparties. Therefore, the participating jurisdictions have a regulatory interest in derivatives involving such underlying interests even if such data is not submitted pursuant to the reporting obligations in the Instrument, but is held by a recognized trade repository.

(1) For the purpose of subsection 37(1) electronic access includes the ability of the securities regulatory authority to access, download, or receive a direct real-time feed of derivatives data maintained by the recognized trade repository.

(2) It is expected that all recognized trade repositories will comply with the access standards and recommendations developed by CPMI (formerly CPSS) and IOSCO and contained in the CPSS-IOSCO final report entitled *Authorities' access to trade repository data*.[8]

(3) We interpret the requirement for a reporting counterparty to use best efforts to provide the securities regulatory authority with access to derivatives data to mean, at a minimum, instructing the recognized trade repository to release derivative data to the securities regulatory authority.

Data available to counterparties

38. Section 38 is intended to ensure that each counterparty, and any person or company acting on behalf of a counterparty, has access to all derivatives data relating to its derivative(s) in a timely manner. The participating jurisdictions expect that where a counterparty has provided consent to a recognized trade repository to grant access to data to a delegate, including a third-party service provider, the recognized trade repository will grant such access on the terms consented to.

Data available to public

39. (1) Subsection 39(1) requires a recognized trade repository to make available to the public, free of charge, certain aggregate data for all derivatives reported to it under the Instrument

[8] Publication available on the BIS website <www.bis.org> and the IOSCO website <www.iosco.org>.

(including open positions, volume, number of transactions and price) unless otherwise governed by the requirements or conditions of a decision of a securities regulatory authority, including the terms of an applicable recognition order.

It is expected that a recognized trade repository will provide aggregate data by notional amounts outstanding and level of activity. Such aggregate data is expected to be available at no cost on the recognized trade repository's website.

(2) Subsection 39(2) requires that the aggregate data that is disclosed under subsection 39(1) be broken down into various categories of information. The following are examples of the categorized aggregate data required under subsection 39(2):

- currency of denomination (the currency in which the derivative is denominated);
- geographic location of the underlying reference entity (e.g., "Canada" for derivatives which reference the TSX60 index);
- asset class of reference entity (e.g., fixed income, credit or equity);
- product type (e.g., options, forwards or swaps);
- cleared or uncleared;
- maturity (broken down into maturity ranges, such as less than one year, 1-2 years, 2-3 years).

(3) We anticipate publishing specific guidelines relating to the data that trade repositories are required to publish. These guidelines will attempt to balance the benefits of transparency and the desire to anonymize data that could reveal the identity of counterparties based on the terms of the derivative.

(4) Published data must be anonymized and the names or legal entity identifiers of counterparties must not be published. This provision is not intended to create a requirement for a recognized trade repository to determine whether anonymized published data could reveal the identity of a counterparty based on the terms of the derivative.

PART 5
EXCLUSIONS

Commodity derivative

40. The exclusion in section 40 applies only to a derivative the asset class of which is a commodity other than currency. A local counterparty with an aggregate month-end gross notional outstanding of less than $250 000 000 would still be required to report a derivative involving a non-commodity (other than currency) based derivative, if it is the reporting counterparty for the derivative under subsection 25(1). The exclusion in section 40 does not

apply to a person or company that is a clearing agency or a derivatives dealer, or an affiliated entity of a clearing agency or a derivatives dealer, even if the person or company is below the $250 000 000 threshold.

For a derivative involving a local counterparty to which the exclusion under section 40 applies, the other counterparty will be the reporting counterparty for the derivative unless either

- the exclusion under section 40 also applies to that counterparty, or

- the local counterparty to which the exclusion under section 40 applies agrees under paragraph 25(1)(c) to be the reporting counterparty for the derivative.

In calculating the month-end notional outstanding for any month, the notional amount of all outstanding derivatives relating to a commodity other than cash or currency, with all counterparties other than affiliated entities, whether domestic or foreign, should be included. Contracts or instruments that are excluded from the definition of "specified derivative" in Multilateral Instrument 91-101 *Derivatives: Product Determination* are not required to be included in the calculation of month-end notional outstanding.

For the purpose of this calculation, we would generally expect that a notional amount denominated in a foreign currency or referencing a quantity or volume of the underlying interest would be converted to a Canadian-dollar notional amount as at a time proximate to the time of the transaction in a reasonable and consistent manner, and consistent with applicable industry standards.

Derivative between a non-resident derivatives dealer and a non-local counterparty

42. Please see the discussion relating to the definition of "local counterparty" for additional guidance relating to section 42.

PART 7
TRANSITION PERIOD AND EFFECTIVE DATE

Effective date

45. (4) The requirement under subsection 39(3) for a recognized trade repository to make transaction level data reports available to the public does not apply until January 1, 2017.