

December 19, 2017

**BY EMAIL**

Alberta Securities Commission  
Autorité des marchés financiers  
Financial and Consumer Services Commission (New Brunswick)  
Financial and Consumer Affairs Authority of Saskatchewan  
Manitoba Securities Commission  
Nova Scotia Securities Commission  
Nunavut Securities Office  
Office of the Superintendent of Securities, Newfoundland and Labrador  
Office of the Superintendent of Securities, Northwest Territories  
Office of the Yukon Superintendent of Securities  
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island

Me Anne-Marie Beaudoin, Corporate Secretary  
Autorité des marchés financiers  
800, rue du Square-Victoria, 22e étage  
C.P. 246, tour de la Bourse  
Montréal (Québec) H4Z 1G3  
[consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

Grace Knakowski, Secretary  
Ontario Securities Commission  
20 Queen Street West 22nd floor  
Toronto, Ontario M5H 3S8  
[comments@osc.gov.on.ca](mailto:comments@osc.gov.on.ca)

Dear Sirs/Mesdames:

**Re: Request for Comments on Proposed Amendments to National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives* and Proposed Changes to Companion Policy 94-101 *Mandatory Central Counterparty Clearing of Derivatives* (the “Proposed Amendments”)**

The Canadian Advocacy Council<sup>1</sup> for Canadian CFA Institute<sup>2</sup> Societies (the CAC) appreciates the opportunity to comment on the Proposed Amendments.

We understand that the Proposed Amendments would narrow down the type of counterparties that would be subject to the National Instrument, generally certain trusts and investment funds, as well as remove certain derivatives that would otherwise be subject to

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<sup>1</sup>The CAC represents more than 15,000 Canadian members of CFA Institute and its 12 Member Societies across Canada. The CAC membership includes portfolio managers, analysts and other investment professionals in Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. See the CAC's website at <http://www.cfasociety.org/cac>. Our Code of Ethics and Standards of Professional Conduct can be found at <http://www.cfainstitute.org/ethics/codes/ethics/Pages/index.aspx>.

<sup>2</sup> CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behavior in investment markets and a respected source of knowledge in the global financial community. The end goal: to create an environment where investors' interests come first, markets function at their best, and economies grow. CFA Institute has more than 149,603 members in 163 countries, including 143,386 CFA charterholders and 148 member societies. For more information, visit [www.cfainstitute.org](http://www.cfainstitute.org).

the clearing requirements, specifically, overnight index swaps and forward rate agreements with variable notional type.

We are supportive of these pragmatic changes. With respect to the type of derivatives subject to the clearing requirements, the notice accompanying the text of the Proposed Amendments indicates that the two types of derivatives to be removed are not currently offered for clearing by regulated clearing agencies. If parties to transactions are required to clear them in Canada through a central counterparty but are not required to do so elsewhere, it could lead to regulatory arbitrage opportunities. In connection with excluding certain trusts and investment funds from the scope of the National Instrument, we agree that there is likely not significant counterparty risk with such entities. Our understanding is that the use of OTC derivatives for those counterparties would commonly be limited to F/X hedges, and if any issues arose, the solution would usually only involve posting additional collateral.

We believe the Proposed Amendments will not have a negative impact on the stated purpose of the National Instrument to reduce counterparty risk in the OTC derivatives market.

### **Concluding Remarks**

We thank you for the opportunity to provide these comments. We would be happy to address any questions you may have and appreciate the time you are taking to consider our points of view. Please feel free to contact us at [chair@cfaadvocacy.ca](mailto:chair@cfaadvocacy.ca) on this or any other issue in future.

(Signed) *The Canadian Advocacy Council for  
Canadian CFA Institute Societies*

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