

M.O., 2016-10**Order number I-14.01-2016-10 of the Minister of Finance dated 9 June 2016**

Derivatives Act
(chapter I-14.01)

CONCERNING the Regulation to amend Regulation 91-506 respecting derivatives determination and the Regulation to amend Regulation 91-507 respecting trade repositories and derivatives data reporting

WHEREAS subparagraphs 2, 3, 9, 11, 12 and 29 of section 175 of par. 1 of the Derivatives Act (chapter I-14.01) stipulates that the *Autorité des marchés financiers* may make regulations concerning the matters referred to in those paragraphs;

WHEREAS the fourth and fifth paragraphs of section 175 of the said Act stipulate that a draft regulation shall be published in the *Bulletin de l'Autorité des marchés financiers*, accompanied with the notice required under section 10 of the Regulations Act (chapter R-18.1) and may not be submitted for approval or be made before 30 days have elapsed since its publication;

WHEREAS the second and sixth paragraphs of the said section stipulate that every regulation made under section 175 must be submitted to the Minister of Finance for approval with or without amendment and comes into force on the date of its publication in the *Gazette officielle du Québec* or any later date specified in the regulation;

WHEREAS the Regulation 91-506 respecting derivatives determination and the Regulation 91-507 respecting trade repositories and derivatives data reporting have been approved by ministerial order no. 2013-21 dated December 6, 2013 (2013, *G.O.* 2, 3631);

WHEREAS there is cause to amend those regulations;

WHEREAS the draft Regulation to amend Regulation 91-506 respecting derivatives determination and the draft Regulation to amend Regulation 91-507 respecting trade repositories and derivatives data reporting were published in the *Bulletin de l'Autorité des marchés financiers*, volume 13, no. 44 of November 5, 2015;

WHEREAS the Authority made, on May 18, 2016, by the decision no. 2016-PDG-0073, Regulation to amend Regulation 91-506 respecting derivatives determination and by the decision no. 2016-PDG-0072, Regulation to amend Regulation 91-507 respecting trade repositories and derivatives data reporting;

WHEREAS there is cause to approve those regulations without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment Regulation to amend Regulation 91-506 respecting derivatives determination and Regulation to amend Regulation 91-507 respecting trade repositories and derivatives data reporting appended hereto.

June 9, 2016

CARLOS LEITÃO,
Minister of Finance

**REGULATION TO AMEND REGULATION 91-506 RESPECTING
DERIVATIVE DETERMINATION**

Derivatives Act
(chapter I-14.01, s. 175, 1st par., subpar. (11))

1. Regulation 91-506 respecting Derivatives Determination (chapter I-14.01, r. 0.1) is amended by inserting, after section 1, the following:

“Application

1.1. This Regulation applies only for the application of Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting (chapter I-14.01, r. 1.1).

Covered derivatives

1.2. This Regulation applies to derivatives that are not traded on an exchange and to derivatives that are traded on a derivatives trading facility.”.

2. Section 2 of the Regulation is amended by replacing, in the part preceding paragraph (a), the words “Regulation 91-507” with the words “This Regulation”.

3. This Regulation comes into force on July 29, 2016.

REGULATION TO AMEND REGULATION 91-507 RESPECTING TRADE REPOSITORIES AND DERIVATIVES DATA REPORTING

Derivatives Act

(chapter I-14.01, s. 175, 1st par., subpar. (2), (3), (9), (11), (12) and (29))

1. Section 1 of Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting (chapter I-14.01, r. 1.1) is amended:

(1) in paragraph (1), in the definition of the expression “local counterparty”:

(a) by inserting, in paragraph (a) and after the word “organized”, the words “or incorporated”;

(b) by replacing, in paragraph (c), the word “party” with the word “person”;

(2) by replacing paragraph (3) and (4) with the following:

“(3) In this Regulation, a person is considered to be an affiliate of another person if one of them controls the other, or if each of them is controlled by the same person.

“(4) In this Regulation, a person (the first party) is considered to control another person (the second party) if any of the following apply:

(a) the first party beneficially owns or directly or indirectly exercises control or direction over securities of the second party carrying votes which, if exercised, would entitle the first party to elect a majority of the directors of the second party unless the first party holds the voting securities only to secure an obligation;

(b) the second party is a partnership, other than a limited partnership, and the first party holds more than 50% of the interests of the partnership;

(c) the second party is a limited partnership and the general partner of the limited partnership is the first party;

(d) the second party is a trust and a trustee of the trust is the first party.”;

(3) by repealing paragraph (5).

2. Section 1.1 of the Regulation is repealed.

3. Section 2 of the Regulation is amended, in the French text of paragraph (2):

(1) by replacing, in subparagraph (a), the words “livres et dossiers” with the word “dossiers”;

(2) by replacing, in subparagraph (i) of subparagraph (b), the words “livres et dossiers” with the word “dossiers”.

4. Section 4 of the Regulation is amended, in paragraph (2):

(1) by inserting, in subparagraph (iii) of subparagraph (a) and after the words “United States of America”, the words “or under the laws of a jurisdiction of the United States of America”;

(2) by inserting, in subparagraph (iii) of subparagraph (d) and after the words “United States of America”, the words “or under the laws of a jurisdiction of the United States of America”.

5. Section 5 of the Regulation is amended by inserting, in subparagraph (iii) of subparagraph (a) of paragraph (3) and after the words “United States of America”, the words “or under the laws of a jurisdiction of the United States of America”.

6. Section 20 of the French text of the Regulation is amended:

(1) by replacing the heading with the following:

“**Risque d’activité**”;

(2) by replacing, in paragraph (1), the words “risque économique général” with the words “risque d’activité”.

7. Section 23 of the Regulation is amended by replacing, in paragraph (1), the word “Regulations” with the word “rules”.

8. Section 26 of the Regulation is amended:

(1) by replacing subparagraph (c) of paragraph (5) with the following:

“(c) the reporting counterparty instructs the recognized trade repository referred to in paragraph (b) to provide the Authority with access to the data that is reported pursuant to paragraph (b) and otherwise uses its best efforts to provide the Authority with access to such data.”

(2) by replacing subparagraph (a) of paragraph (6) with the following :

“(a) is reported to the same recognized trade repository or, if reported to the Authority under subsection (4), to the Authority, and”;

(3) in paragraph (9):

(a) by replacing, in the part preceding subparagraph (a), the words “recognized or exempt” with the word “reporting”;

(b) by replacing, in subparagraph (a), the words “the recognized or exempt” with the word “a reporting”;

(c) by replacing, in subparagraph (b), the words “recognized or exempt” with the word “reporting”.

9. Section 28 of the Regulation is amended by adding, after paragraph (3), the following:

“(4) If a counterparty to a transaction is an individual or is not eligible to receive a legal entity identifier as determined by the Global Legal Entity Identifier System, the reporting counterparty must identify such a counterparty with an alternate identifier.

“(5) If paragraph (4) applies, then despite paragraph (1), the recognized trade repository must identify such a counterparty with the alternate identifier supplied by the reporting counterparty.”.

10. The Regulation is amended by inserting, after section 28, the following:

“**28.1.** Each local counterparty to a transaction required to be reported under this Regulation that is eligible to receive a legal entity identifier as determined by the Global Legal Entity Identifier System, other than an individual, must obtain, maintain and renew a legal identity identifier assigned to the counterparty in accordance with the standards set by the Global Legal Entity Identifier System.”.

11. Section 33 of the Regulation is amended by replacing subparagraphs (a) and (b) of paragraph (1) with the following:

“(a) daily, based on relevant closing market data from the previous business day, if the reporting counterparty is either a reporting clearing house or a person subject to the registration requirement as a dealer under the Act, or a Canadian financial institution, or

“(b) quarterly, as of the last day of each calendar quarter, if the reporting counterparty is neither a reporting clearing house, nor a person subject to the registration requirement as a dealer under the Act, nor a Canadian financial institution.”.

12. Section 38 of the Regulation is amended by replacing, in the French text of paragraph (1), the words “aux données sur tous les dérivés pertinents” with the words “à toutes les données pertinentes sur les dérivés”.

13. Section 39 of the Regulation is amended:

(1) by replacing, in paragraph (1), the words “and price” with the words “and, where applicable, price”;

(2) by replacing paragraph (3) with the following:

“(3) For each transaction reported pursuant to this Regulation, a recognized trade repository must make transaction level reports available to the public at no cost, in accordance with the requirements in Appendix C.”;

(3) by deleting, in paragraph (6), the word “legal”.

14. Section 40 of the Regulation is amended by replacing paragraph (b) with the following:

“(b) the local counterparty is neither a reporting clearing house, nor a person subject to the registration requirement as a dealer under the Act, nor a Canadian financial institution, and”.

15. Section 42 of the Regulation is amended by replacing, in paragraph (2), “April 30, 2015” with “January 16, 2017”.

16. Appendix A of the Regulation is amended:

(1) by deleting, in the table, the title and the content of the third column;

(2) by replacing, in the text of the second column of line 11, the word “entities” with the word “persons”;

(3) by replacing the text of the second column of line 13 with the following:

“LEI of the reporting counterparty or, in the case of an individual or a counterparty that is not eligible to receive an LEI, an alternate identifier.”;

(4) by replacing the text of the second column of line 14 with the following:

“LEI of the non-reporting counterparty or, in the case of an individual or a counterparty that is not eligible to receive an LEI, an alternate identifier.”;

(5) by replacing the text of the second column of line 17 with the following:

“If the reporting counterparty is a local counterparty under this Regulation or the derivatives data reporting rules of Ontario or Manitoba, or is a local counterparty under paragraph (a) or (c) of the definition of local counterparty in the derivatives data reporting rules of any other jurisdiction of Canada, indicate all such jurisdictions.”;

(6) by replacing the text of the second column of line 18 with the following:

“If the non-reporting counterparty is a local counterparty under this Regulation or the derivatives data reporting rules of Ontario or Manitoba, or is a local counterparty under paragraph (a) or (c) of the definition of local counterparty in the derivatives data reporting rules of any other jurisdiction of Canada, indicate all such jurisdictions.”;

(7) on line 2 of section A:

(a) by replacing the text of the first column with the following:

“Contract or instrument type”;

(b) by replacing, in the second column, the word “transaction” with the words “contract or instrument”;

(8) by replacing the text of the first column of line 4 of section D with the following:

“Reporting timestamp”;

(9) by replacing the last line that reads “**F. Other details**” with the following:

F. Other Details		
	Where the terms of the transaction cannot be effectively reported in the above prescribed fields, provide any additional information that may be necessary.	Y

17. The Regulation is amended by adding, after Appendix B, the following:

“Appendix C Recognized trade repository requirements for the public dissemination of derivatives data

Instructions:

1. A recognized trade repository is required to disseminate to the public at no cost the information contained in Table 1 for each of the asset classes and underlying asset identifiers listed in Table 2 for:

(a) a transaction reported to the recognized trade repository pursuant to this Regulation;

(b) a life-cycle event that changes the pricing of an existing derivative reported to the recognized trade repository pursuant to this Regulation;

(c) a cancellation or correction of previously disseminated data relating to a transaction referred to in paragraph (a) or a life-cycle event referred to in paragraph (b).

Table 1

Data field	Description
Cleared	Indicate whether the transaction has been cleared by a clearing house.
Electronic trading venue identifier	Indicate whether the transaction was executed on an electronic trading venue.
Collateralization	Indicate whether the transaction is collateralized.
Unique product identifier	Unique product identification code based on the taxonomy of the product.

Data field	Description
Contract or instrument type	The name of the contract or instrument type (e.g., swap, swaption, forwards, options, basis swap, index swap, basket swap, other).
Underlying asset identifier 1	The unique identifier of the asset referenced in the transaction.
Underlying asset identifier 2	The unique identifier of the second asset referenced in the transaction, if more than one. If more than 2 assets identified in the transaction, report the unique identifiers for those additional underlying assets.
Asset class	Major asset class of the product (e.g., interest rate, credit, commodity, foreign exchange, equity, etc.).
Effective date or start date	The date the transaction becomes effective or starts.
Maturity, termination or end date	The date the transaction expires.
Payment frequency or dates	The dates or frequency the transaction requires payments to be made (e.g., quarterly, monthly).
Reset frequency or dates	The dates or frequency at which the price resets (e.g., quarterly, semi-annually, annually).
Day count convention	Factor used to calculate the payments (e.g., 30/360, actual/360).
Price 1	The price, yield, spread, coupon, etc., of the transaction. The price/rate should not include any premiums such as commissions, collateral premiums, accrued interest, etc.
Price 2	The price, yield, spread, coupon, etc., of the transaction. The price/rate should not include any premiums such as commissions, collateral premiums, accrued interest, etc.
Price notation type 1	The manner in which the price is expressed (e.g., percent, basis points, etc.).
Price notation type 2	The manner in which the price is expressed (e.g., percent, basis points, etc.).
Notional amount leg 1	Total notional amount(s) of leg 1 of the transaction.
Notional amount leg 2	Total notional amount(s) of leg 2 of the transaction.
Currency leg 1	Currency(ies) of leg 1.

Data field	Description
Currency leg 2	Currency(ies) of leg 2.
Settlement currency	The currency used to determine the cash settlement amount.
Embedded option	Indicate whether the option is an embedded option.
Option exercise date	The date(s) on which the option may be exercised.
Option premium	Fixed premium paid by the buyer to the seller.
Strike price (cap/floor rate)	The strike price of the option.
Option style	Indicate whether the option can be exercised on a fixed date or anytime during the life of the transaction (e.g., American, European, Bermudan, Asian).
Option type	Put, call.
Action	Describes the type of event to the transaction (e.g., new transaction, modification or cancellation of existing transaction, etc.).
Execution timestamp	The time and date of execution or novation of a transaction, expressed using Coordinated Universal Time (UTC).

Table 2

Asset class	Underlying asset identifier
Interest rate	CAD-BA-CDOR
	USD-LIBOR-BBA
	EUR-EURIBOR-Reuters
	GBP-LIBOR-BBA
Credit	All indexes
Equity	All indexes

Exemptions:

2. Notwithstanding item 1, each of the following is exempt from the requirement to be publicly disseminated:

- (a) a transaction in a derivative that requires the exchange of more than one currency;
- (b) a transaction resulting from a bilateral or multilateral portfolio compression exercise;
- (c) a transaction resulting from novation by a reporting clearing house.

Rounding:

3. A recognized trade repository must round the notional amount of a transaction for which it disseminates transaction level data pursuant to this Regulation and this Appendix in accordance with the rounding conventions contained in Table 3.

Table 3

Reported notional amount leg 1 or 2	Rounded notional amount
< 1,000	Round to nearest 5
≥1,000, <10,000	Round to nearest 100
≥10,000, <100,000	Round to nearest 1,000
≥100,000 <1 million	Round to nearest 10,000
≥1 million, <10 million	Round to nearest 100,000
≥10 million, <50 million	Round to nearest 1 million
≥50 million, <100 million	Round to nearest 10 million
≥100 million, <500 million	Round to nearest 50 million
≥500 million, <1 billion	Round to nearest 100 million
≥1 billion, <100 billion	Round to nearest 500 million
>100 billion	Round to nearest 50 billion

Capping:

4. Where the rounded notional amount of a transaction, as set out in Table 3, would exceed the capped rounded notional amount in CAD of that transaction as set out in Table 4, a recognized trade repository must disseminate the capped rounded notional amount for the transaction in place of the rounded notional amount.

5. When disseminating transaction level data pursuant to this Regulation and this Appendix for a transaction to which item 4 applies, a recognized trade repository must indicate that the notional amount for a transaction has been capped.

6. For each transaction for which the capped rounded notional amount is disseminated, if the information to be disseminated includes an option premium, a recognized trade repository must adjust the option premium in a manner that is consistent and proportionate relative to the capping and rounding of the reported notional amount of the transaction.

Table 4

Asset class	Maturity date less effective date	Capped rounded notional amount in CAD
Interest rate	Less than or equal to 2 years	250 million
Interest rate	Greater than 2 years and less than or equal to 10 years	100 million
Interest rate	Greater than 10 years	50 million
Credit	All dates	50 million
Equity	All dates	50 million

Timing:

7. A recognized trade repository must disseminate the information contained in Table 1, 48 hours after the time and date represented by the execution timestamp field of the transaction.

18. Form 91-507F1 of the Regulation is amended:

(1) by replacing, in the French text of paragraph (1) of item 5 of Exhibit A, the words “lives et dossiers” with the word “dossiers”;

(2) by replacing, in subparagraph (c) of paragraph (6) of item 2 of Exhibit D, the words “the U.S.” with the words “the United States of America or under the laws of a jurisdiction of the United States of America”.

19. Form 91-507F2 of the Regulation is amended by replacing, in the French text of item 6, the word “reconnait” with the word “désigne”.

20. This Regulation comes into force on July 29, 2016.