

## CSA Multilateral Notice and Request for Comment

### Proposed Amendments to Certain National, Multilateral and Local Instruments and

### Proposed Changes to Companion Policy 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*

### Related to Derivatives Regulation in Alberta, New Brunswick and Saskatchewan

May 19, 2016

#### Introduction

The securities regulatory authorities in Alberta, New Brunswick and Saskatchewan (the **Participating Jurisdictions** or **we**) are publishing the following for a 60-day comment period expiring on July 18, 2016:

proposed amendments (the **Proposed Amendments**) to:

- Multilateral Instrument 11-102 *Passport System*,
- National Instrument 14-101 *Definitions*,
- National Instrument 21-101 *Marketplace Operation*,
- National Instrument 23-102 *Use of Client Brokerage Commissions*,
- National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*,
- National Instrument 55-104 *Insider Reporting Requirements and Exemptions*,
- In New Brunswick, Financial and Consumer Services Commission (New Brunswick) Local Rule 31-502 *Supplementary Registration Requirements*, and

proposed changes (the **Proposed Changes**) to:

- Companion Policy 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

The text of the Proposed Amendments and Proposed Changes is contained in Annexes A through H of this notice and will also be available on the websites of the Participating Jurisdictions:

[www.albertasecurities.com](http://www.albertasecurities.com)

[www.fcaa.gov.sk.ca](http://www.fcaa.gov.sk.ca)

[www.fcnb.ca](http://www.fcnb.ca)

## **Substance and Purpose**

The Proposed Amendments and Proposed Changes are intended to address local amendments to legislation in Alberta, New Brunswick and Saskatchewan that were introduced to provide a platform for the regulation of derivatives. The Participating Jurisdictions are issuing this Notice to identify the sections of certain national, multilateral and local instruments and policies affected by the Proposed Amendments and Proposed Changes in Alberta, New Brunswick and Saskatchewan. For public convenience, CSA members in other jurisdictions will update the text of the applicable consolidated instruments on their websites to reflect these local amendments when implemented.

## **Background**

On December 13, 2013, amendments to the *Securities Act* (New Brunswick) (the **NB Act**) were proclaimed to create a framework for derivatives regulation. Among other things, the NB Act was amended to add a definition of “derivative” and to replace throughout the NB Act, where necessary, the terms “exchange contract” and “futures contract” with the term “derivative”.

On October 31, 2014 amendments to the *Securities Act* (Alberta) (the **AB Act**) were proclaimed to create a similar framework for derivatives regulation. Among other things, the AB Act was amended to add a definition of “derivative” and to replace throughout the AB Act, where necessary, the term “exchange contract” with the term “derivative”. Consequential amendments to certain national, multilateral and provincial rules were made, effective October 31, 2014. The consequential amendments proposed in Alberta are intended to harmonize language in the various instruments with the language proposed to apply in the other Participating Jurisdictions.

On February 10, 2016, amendments to *The Securities Act, 1988* (the **SK Act**) were proclaimed to provide a similar platform for regulation of derivatives. The overall effect of the amendments is to add a definition of “derivative” into the SK Act and to make consequential changes throughout the Act to reflect this such as replacing the word “exchange contract” with the word “derivative”.

As a result of the amendments to the AB Act, the NB Act and the SK Act, certain national, multilateral and local instruments and policies need to be amended to reflect changes to terminology.

## **Request for comments**

Please provide your comments in writing on or before July 18, 2016.

Please note that we do not intend to keep submissions confidential. You should not include personal information directly in comments. It is important that you state on whose behalf you are making the submission.

Thank you in advance for your comments. Please address your submission to the following:

Alberta Securities Commission  
Financial and Consumer Services Commission (New Brunswick)  
Financial and Consumer Affairs Authority of Saskatchewan

Please send your comments **only** to the following addresses:

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### **Contents of Annexes**

The following annexes form part of this CSA Multilateral Notice:

Annex A	Proposed amendments to Multilateral Instrument 11-102 <i>Passport System</i>
Annex B	Proposed amendments to National Instrument 14-101 <i>Definitions</i>
Annex C	Proposed amendments to National Instrument 21-101 <i>Marketplace Operation</i>
Annex D	Proposed amendments to National Instrument 23-102 <i>Use of Client Brokerage</i>

	<i>Commissions</i>
Annex E	Proposed amendments to National Instrument 31-103 <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i>
Annex F	Proposed changes to Companion Policy 31-103 <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i>
Annex G	Proposed amendments to National Instrument 55-104 <i>Insider Reporting Requirements and Exemptions</i>
Annex H	Proposed local amendments to Financial and Consumer Services Commission (New Brunswick) Local Rule 31-502 <i>Supplementary Registration Requirements</i>

## **Questions**

Please refer your questions to any of the following:

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## ANNEX A

### Proposed Amendments to Multilateral Instrument 11-102 *Passport System*

1. *Multilateral Instrument 11-102 Passport System is amended by this Instrument.*
2. *Appendix D is amended as follows:*
  - (a) *in respect of the row entitled “Trading exchange contracts on an exchange in jurisdiction” by replacing*
    - (i) *under the column titled “Alberta” replacing “s.106 & 107” with “n/a”,*
    - (ii) *under the column titled “Saskatchewan” replacing “s.40” with “n/a”, and*
    - (iii) *under the column titled “New Brunswick” replacing “s.70.1” with “n/a”, and*
  - (b) *in respect of the row entitled “Trading exchange contracts on an exchange outside jurisdiction” by replacing*
    - (iv) *under the column titled “Alberta” replacing “s.108 & 109” with “n/a”,*
    - (v) *under the column titled “Saskatchewan” replacing “s.41” with “n/a”, and*
    - (vi) *under the column titled “New Brunswick” replacing “s.70.2” with “n/a”.*
3. This Instrument comes into force on [●].

## ANNEX B

### Proposed Amendments to National Instrument 14-101 *Definitions*

1. *National Instrument 14-101 Definitions is amended by this Instrument.*

2. *Subsection 1.1(3) is amended by adding the following definition:*

“exchange contract” means, in Alberta, New Brunswick and Saskatchewan, a derivative:

- (a) that is traded on an exchange;
- (b) that has standardized terms and conditions determined by that exchange; and
- (c) for which a clearing agency substitutes, through novation or otherwise, the credit of the clearing agency for the credit of the parties to the derivative..

3. This Instrument comes into force on [●].

## ANNEX C

### **Proposed Amendments to National Instrument 21-101 *Marketplace Operation***

1. *National Instrument 21-101 Marketplace Operation is amended by this Instrument.*
2. *Section 1.4 is amended by adding the following subsection:*
  - (4) In Alberta, New Brunswick and Saskatchewan, the term “security”, when used in this Instrument, includes an option that is an exchange contract..
3. This Instrument comes into force on [●].

## ANNEX D

### Proposed Amendments to National Instrument 23-102 *Use of Client Brokerage Commissions*

1. *National Instrument 23-102 Use of Client Brokerage Commissions is amended by this Instrument.*

2. *Section 1.2 is replaced with the following*

#### **1.2 Interpretation – Security**

For the purposes of this Instrument,

- (a) in British Columbia, “security” includes an exchange contract;
- (b) in Quebec, “security” includes a standardized derivative, and
- (c) in Alberta, New Brunswick and Saskatchewan, “security” includes a derivative..

3. This Instrument comes into force on [●].



## ANNEX E

### **Proposed Amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations***

1. *National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations is amended by this Instrument.*
2. *Section 1.2 is replaced with the following*
  - 1.2 **Interpretation Of “Securities” In Alberta, British Columbia, New Brunswick And Saskatchewan**
    - (1) In British Columbia, a reference to “securities” in this Instrument includes “exchange contracts”, unless the context otherwise requires.
    - (2) In Alberta, New Brunswick and Saskatchewan, a reference to “securities” in this Instrument includes “derivatives”, unless the context otherwise requires..
3. *In Alberta, section 8.2 is amended*
  - (a) *in subsection (1) by inserting “Alberta,” before “British Columbia,” and*
  - (b) *by repealing subsection (2).*
4. *In Alberta, section 8.20 is amended*
  - (a) *in subsection (1) by inserting “Alberta,” before “British Columbia,” and*
  - (b) *by repealing subsection (1.1).*
5. *Section 8.20.1 is replaced with the following*
  - 8.20.1 **Exchange Contract Trades Through Or To a Registered Dealer – Alberta, British Columbia, New Brunswick and Saskatchewan**

In Alberta, British Columbia, New Brunswick and Saskatchewan, the dealer registration requirement does not apply to a registered adviser, or an advising representative or associate advising representative acting on behalf of the registered adviser, in respect of trading activities related to exchange contracts that are incidental to its providing advice to a client, if the trade is made through a dealer registered in a category that permits the trade or a dealer operating under an exemption from the dealer registration requirement..

6. *In Alberta, section 8.26 is amended*
  - (a) *in subsection (1) by inserting “Alberta,” before “British Columbia,” and*
  - (b) *by repealing subsection (1.1).*
7. This Instrument comes into force on [●].

## ANNEX F

### **Proposed Changes to Companion Policy 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations***

1. *The changes to Companion Policy 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations are set out in this Annex.*
2. *Appendix B – Terms defined in National Instrument 14-101 Definitions is changed by adding the following:*
  - “exchange contract (AB, SK and NB only)”.
3. *Appendix B - Terms defined in the Securities Act of most jurisdictions is changed by replacing “exchange contract (BC, AB, SK and NB only)” with “exchange contract (BC only)”.*
4. These changes become effective on [●].

## ANNEX G

### Proposed Amendments to National Instrument 55-104 *Insider Reporting Requirements and Exemptions*

1. *National Instrument 55-104 Insider Reporting Requirements and Exemptions is amended by this Instrument.*
2. *Subsection 1.1(1) is amended in the definition of “derivative”*
  - (a) *in paragraph (a) by adding “, Saskatchewan” before “and the Yukon Territory”, and*
  - (b) *in paragraph (b) by adding “, Saskatchewan” before “and the Yukon Territory”.*
3. This Instrument comes into force on [●].

## ANNEX H

### **Proposed Local Amendments to Financial and Consumer Services Commission (New Brunswick) Local Rule 31-502 *Supplementary Registration Requirements***

1. ***Financial and Consumer Services Commission (New Brunswick) Local Rule 31-502  
Supplementary Registration Requirements is amended by this Instrument.***
2. ***Subsection 5(1) is amended by replacing “exchange contracts” with “derivatives”.***
3. ***Paragraph 5(2)(b) is amended by replacing “any exchange contract” with “any  
derivative” and by replacing “any class of securities or exchange contracts” with “any  
class of securities or derivatives”.***
4. This Instrument comes into force on [●].