

CSA provide guidance on Canadian derivatives trade reporting rules ahead of CFTC rewrite

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The Canadian Securities Administrators (CSA) have published [CSA Staff Notice 96-303 Derivatives Data Reporting Transition Guidance](#) (the Staff Notice) to provide reporting guidance to derivatives market participants who report under existing Canadian trade reporting rules and the United States swap data reporting rules. The Staff Notice outlines the CSA's expectations for data reporting in light of the Commodity Futures Trading Commission's (CFTC) rewrite^[1] of its swap data reporting rules, which will come into effect in December 2022, before similar proposed amendments to the Canadian trade reporting rules are finalized and implemented.

The transition period

On December 5, 2022, the CFTC rewrite of the U.S. swap data reporting rules will come into effect and adopt the global guidance for harmonizing critical OTC derivatives data elements published in April 2018 by the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions (the CPMI-IOSCO Guidance).^[2]

On June 9, 2022, the CSA published for comment proposed amendments to the four existing Canadian trade reporting rules.^[3] These proposed amendments are intended to, among other things, incorporate the updated data elements from the CPMI-IOSCO Guidance. While the proposed amendments have not been finalized, the CSA noted in their requests for comment that they intend to implement final amendments in 2024 after the second phase of amendments comprising the CFTC rewrite process are effective in December 2023.

Reporting counterparties who report under both the existing Canadian trade reporting rules and the CFTC's amended swap data reporting rules will therefore be subject to differing data reporting standards during the period between December 5, 2022 and the effective date of the final amendments to the Canadian trade reporting rules (the transition period).

CSA guidance

To assist such reporting counterparties during the transition period, the CSA have provided the following guidance in the Staff Notice:

Type of derivatives data	Guidance
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1. Data is reportable under the existing Canadian rules and analogous data is required under the amended CFTC rules.	Reporting counterparties may comply with the existing Canadian rules if they report the data according to a CFTC data element that is comparable to the relevant data element in Appendix A to the applicable Canadian rule (if supported by the designated or recognized trade repository (a Trade Repository)).
2. Data is reportable under the amended CFTC rules but not reportable under the existing Canadian rules.	Data remains not reportable under the existing Canadian rules. Reporting counterparties may, however, report if the relevant data element has been proposed in the CSA proposed amendments and is supported by the Trade Repository.
3. Data is reportable under the existing Canadian rules but not reportable under the amended CFTC rules.	Data continues to be reportable under the existing Canadian rules and reporting counterparties must continue to report this data.

The CSA note that the Staff Notice guidance does not require a Trade Repository to support the foregoing options and that market participants may wish to contact their Trade Repositories to understand the Trade Repositories' changes in connection with the CFTC rewrite and approach to reporting during the transition period.

Conclusion

Pending the implementation of final amendments to the existing Canadian trade reporting rules, impacted market participants should review the revised CFTC data elements against both the existing Canadian data elements and the proposed CSA amendments in light of the Staff Notice guidance to determine how their derivatives data must (or, in the case of new data elements reportable only under the amended CFTC rules, may) be reported during the transition period.

[1] Amendments to CFTC Rules Parts 43, 45, 46 and 49: Final Rule, Swap Data Recordkeeping and Reporting Requirements, 85 Fed. Reg. 75503 (Nov. 25, 2020); Final Rule, Real-Time Public Reporting Requirements, 85 Fed. Reg. 75422 (Nov. 25, 2020); and Final Rule, Certain Swap Data Repository and Data Reporting Requirements, 85 Fed. Reg. 75601 (Nov. 25, 2020).

[2] [CPMI-IOSCO Guidance](#) [PDF].

[3] Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting*, Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting*, Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting*, and Quebec Regulation 91-507 *respecting Trade Repositories and Derivatives Data Reporting*.