

Nurturing compliance: CSA publishes FAQ on Derivatives Business Conduct rule

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On September 12, 2024, the Canadian Securities Administrators (CSA) published a list of answers to frequently asked questions (FAQs) they have received about National Instrument 93-101 Derivatives: Business Conduct (NI 93-101), in force on September 28, 2024. The CSA notes that the purpose of the FAQ is to assist firms with implementation while also preserving flexibility, where possible, to help firms operationalize the requirements under NI 93-101 based on the particulars of their business framework.

As a brief reminder, NI 93-101 marks Canada's long-awaited introduction of a business conduct rule for the derivatives markets, the last of the G20 countries to do so. In substance, many of the rules that derivatives advisers and dealers will be subject to in NI 93-101 are similar to those that securities registrants are subject to under National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations. A derivatives firm under NI 93-101 refers to derivatives advisers and dealers, that is, persons or companies who engage in or hold themselves out as engaging in the business of advising others in respect of derivatives or trading in derivatives, respectively, and any other person or company required to be registered as a derivatives adviser or dealer under securities legislation. The NI 93-101 regime regulates the business conduct of derivatives advisers and dealers in the over-the-counter (OTC) derivatives market, that is, NI 93-101 applies only to certain derivatives products.

The FAQ covers various grounds, including answering general questions such as how a derivatives firm can determine the types of derivatives products subject to NI 93-101 (in Ontario, reference is made to OSC Rule 91-506 Derivatives: Product Determination). There is also information regarding how foreign derivatives dealers and advisers can submit Form 93-101F1 to perfect their reliance on certain exemptions from the provisions of NI 93-101; assistance with definitions and interpretations, including with respect to "eligible derivatives parties"; and additional guidance regarding the designation and responsibilities of a "senior derivatives manager", among others.

Interested readers are encouraged to review the [full FAQ](#). It should be noted that the CSA has indicated that the FAQ may be updated from time to time. As such, derivatives firms should be on the look out for additional FAQ guidance in the future.

If you have any questions regarding the FAQ, NI 93-101 or the applicability of the instrument to your business, [please contact us](#).

By

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