



IN THE MATTER OF THE *SECURITIES ACT*  
(S.Y. 2007 c.16 as amended)

- and -

**Exempting Certain Counterparties from Mandatory Clearing, 2018**

**SUPERINTENDENT ORDER 2018/01Y.S.A.**  
**(under section 16 of the *Securities Act*)**

**WHEREAS** subsection 3(1) of National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives* (NI 94-101) requires a local counterparty to a transaction in a mandatory clearable derivative to submit, or cause to be submitted, the mandatory clearable derivative to a regulated clearing agency that offers clearing services in respect of the mandatory clearable derivative (the Clearing Requirement), if one or more of the following applies to each counterparty:

- (a) effective April 4, 2017, the counterparty
  - (i) is a participant of a regulated clearing agency that offers clearing services in respect of the mandatory clearable derivative, and
  - (ii) subscribes to clearing services for the class of derivatives to which the mandatory clearable derivative belongs;
- (b) effective October 4, 2017, the counterparty
  - (i) is an affiliated entity of a participant referred to in paragraph (a), and
  - (ii) has had, at any time after the date on which NI 94-101 comes into force, a month-end gross notional amount under all outstanding derivatives exceeding \$1 000 000 000 excluding derivatives to which paragraph 7(1)(a) of NI 94-101 applies;
- (c) effective October 4, 2017, the counterparty
  - (i) is a local counterparty in any jurisdiction of Canada, other than a counterparty to which paragraph (b) applies, and
  - (ii) has had, at any time after the date on which NI 94-101 comes into force, a month-end gross notional amount under all outstanding derivatives, combined with each affiliated entity that is a local counterparty in any jurisdiction of Canada, exceeding \$500 000 000 000 excluding derivatives to which paragraph 7(1)(a) of NI 94-101 applies;

**AND WHEREAS** on October 12, 2017, the Superintendent published for comment proposed amendments to NI 94-101 (the **Proposed Amendments**). The Superintendent is currently considering the comments received on the Proposed Amendments. If implemented, the Proposed Amendments would clarify the scope of application of the Clearing Requirement so that certain counterparties will not be subject to the Clearing Requirement under paragraphs 3(1)(b) and (c) of NI 94-101;

**AND WHEREAS** some counterparties that would have been subject to the Clearing Requirement effective October 4, 2017 may not be subject to the Clearing Requirement as a result of the Proposed Amendments. Therefore, exemptive relief is required;

**AND WHEREAS** the current Superintendent Order 2017/03 YSA *Exemption from the mandatory clearing requirements in NI 94-101 for certain counterparties* expires on August 20, 2018 and this order becomes effective on August 20, 2018;

**AND WHEREAS** the Superintendent has determined that it would not be prejudicial to the public interest to make this Order;

**IT IS ORDERED THAT:**

1. Terms defined in the *Securities Act, Yukon* (the *Act*), in National Instrument 14-101 *Definitions* or in NI 94-101 have the same meaning in this Blanket Order;
2. Under section 16 of the *Act*, a counterparty to which paragraph (3)(1)(a) of NI 94-101 does not apply and that is required under paragraph 3(1)(b) or (c) of NI 94-101 to clear a mandatory clearable derivative is exempt from that requirement.
3. The exemption under paragraph 2 of this Blanket Order is available in respect of a transaction in a mandatory clearable derivative that occurs on or after August 20, 2018.
4. This Blanket Order takes effect on August 20, 2018 and expires on the earlier of the following:
  - (i) the date on which this Blanket Order is revoked;
  - (ii) the date on which amendments to NI 94-101 come into force with respect to the scope of counterparties subject to the Clearing Requirement.

**Dated** at Whitehorse, in Yukon, this 18th day of June, 2018.

*Fred Pretorius* (original signature on file)

Fred Pretorius  
Superintendent of Securities