



Ian C.W. Russell FCSI
President & Chief Executive Officer

September 12, 2011

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Superintendent of Securities, Yukon Territory
Registrar of Securities, Nunavut

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario M5H 3S8

And

Anne-Marie Beaudoin
Directrice du secretariat
Autorité des marchés financiers
800, square Victoria, 22^e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3

Dear Sirs/Mesdames:

Re: Consultation Paper 91-402 on Derivative Trade Repositories (the “Paper”)

The Investment Industry Association of Canada (“IIAC” or the “Association”) is the professional association for the securities industry, representing approximately 180 investment dealers in Canada. Our mandate is to promote efficient, fair and competitive capital markets for Canada

and assist our member firms across the country. Given the participation of our member firms and their affiliates in the over-the-counter (“OTC”) derivatives market, our Association is pleased to respond to the Canadian Securities Administrators’ (“CSA”) consultation on derivative trade repositories. We have consulted widely with Members to prepare these comments in response to the Paper.

Our comments are primarily focused on three of the predominant themes that arise in the Paper; 1) Harmonization (both domestically and internationally); 2) Effective Governance; and 3) Optimal Transparency.

Harmonization

The IIAC is encouraged by the CSA recognition that the OTC derivatives market is global, and that cooperation and coordination among securities jurisdictions is critical to ensure efficient global markets. Given the global dimension to these markets, we concur the CSA must develop a regulatory framework that is based on international standards and protocols, with a large degree of coordination among international regulators. The regulatory framework for trade repositories in Canada should align with international standards, such as the governance and operational standards recommended by the Committee on Payment and Settlement Systems (“CPSS”) and the Technical Committee of the International Organization of Securities Commissions (“IOSCO”).

Furthermore, it is important to adopt international standards for the reporting of OTC derivative data. Regulators globally have recognized the importance of collecting accurate, timely and meaningful data on OTC derivative transactions to monitor and assess risks in the marketplace. A critical first step to the collection of this data is the establishment and global adoption of unique identifiers for legal entities and the products traded. A standardized approach to legal entity identifiers (“LEIs”) will greatly assist regulators in identifying transactions by entities across global markets and assess institutional and systemic risk through data collection and reporting. A global standard LEI will also promote a cost efficient regime for data collection through the substantial operational efficiencies extended to the financial industry. The current absence of universally accepted LEIs will require that industry and regulators adopt a standard and choose an issuing agency for the LEIs. Earlier this year a group of global financial services trade associations (the “Trade Associations”) released a comprehensive set of requirements for establishing an LEI system to assist regulators and industry in monitoring systemic risk¹. On July 8, 2011, the Trade Associations put forth a recommendation for the LEI Solution Provider² and a workshop has been arranged for later this month by the Financial Stability Board for regulators and industry to discuss an approach for LEIs. We strongly endorse the CSA Paper’s recommendation that “*all Canadian market participants be required to adopt any such universal identification system that identifies corporate or entity affiliations*”. Once additional details for the Trade Associations’ recommended global LEI framework become available and the LEI authority is closer to operating, Canadian regulators should work to determine how this global LEI solution can be incorporated into Canada’s trade reporting arrangements. As is the case for LEI’s, Canadian authorities also need to engage with industry and regulators

¹ <http://www.sifma.org/issues/operations-and-technology/legal-entity-identifier/resources/>

² A description of the process followed and recommendation is available at :
<http://www.sifma.org/issues/item.aspx?id=8589934643>

internationally to adopt universal identifiers for OTC products. Without standard product identifiers, accurately measuring systemic risk within an asset class will not be possible.

We also need Canadian securities commissions to develop an efficient cooperative regulatory framework for trade repositories within Canada to provide an efficient and effective mechanism for accessing OTC market data, limit the costs on market participants and ensure the competitiveness of Canadian institutions. A fragmented approach to derivatives regulation in Canada will be ineffective while imposing additional costs and complexities on market participants. While we recognize the CSA need to establish a recognition or designation process for any trade repository that intends to carry on business in Canada, provincial market regulators should have a coordinated approach to the development of rules, policies or notices and regulatory oversight to ensure that any trade repository and/or reporting entity is not subject to differing sets of multiple regulations.

Governance

The mandated use of OTC trade repositories, as part of the broader OTC derivative framework, are regulatory efforts towards:

- Better management of systemic risk (Macro-prudential concerns)
- Bolstering the safety and soundness of individual institutions (Micro-prudential concerns)
- Detection and deterrence of price manipulation, cornering, insider trading, etc. (Market conduct concerns)

To meet the objectives above, proper oversight and governance are critical to ensure trade repositories work effectively and efficiently. The Paper lacks clarity on how CSA members will interact with each other, and with other regulators and public authorities, when it comes to the oversight and rulemaking of Canadian trade repositories. IIAC is concerned its members, their clients or the trade repository itself could be subject to duplicative – and possibly contradictory – requirements from their various regulators.

Efficient operation and oversight of trade repositories in Canada will require coordination among Canadian securities regulators in order to discharge their market surveillance responsibilities. Moreover, it will also be important to coordinate with the Bank of Canada given its responsibilities for systemic risks. There are insightful precedents in Canadian capital markets that will guide in putting together a suitable governance framework for critical infrastructure. We recommend that a lead regulator be selected for any trade repository doing business in Canada. The Bank of Canada could play the leadership role in this regard given its oversight and responsibilities for systemic risk, but on a coordinated basis with provincial securities regulators.

Market Transparency and Information Access

We recognize the importance placed by regulators, market participants and investors on increased transparency in OTC derivatives markets. Regulators will require timely and comprehensive access to data in the OTC derivative market. Given the global nature of the OTC derivatives market, Canadian regulators will need to establish protocols and agreements or MOUs for information sharing and put in place mechanisms to aggregate information across

jurisdictions to adequately assess systemic risks. As the Paper recognizes, data aggregation will prove challenging and may require further research into the establishment of a suitable mechanism for Canada. However, primary focus by Canadian and international regulators should, revolve around establishing protocols, such as the LEI, to data collection and information sharing and a technological framework for accessing data across jurisdictions.

It also becomes important for regulators to determine the kind of information that should be available to market participants that provides the necessary level of transparency without disrupting market function. The Paper does not provide description on the level of trade data accessible to market participants. At a minimum, counterparty to transactions should have access to their own data stored within the trade repository to ensure their accuracy and completeness. The CSA should also explore with industry additional information that can be provided to reporting entities without jeopardizing the integrity of the trade repository. The CSA's approach to disseminate data more broadly will require careful consideration. While public access to trade repository data will enhance transparency in the OTC derivatives market, and contribute to investor understanding and functioning of the marketplace, regulators should be aware of unintended consequences from public access to granular data. Specifically, such access could facilitate predatory market behavior or market manipulation and damage market liquidity and investor confidence.

Conclusion

The regulatory framework for trade repositories for OTC derivative securities requires extensive consultation and coordination with foreign regulators. We support the CSA decision to align their rule-making with international standards. Canadian regulators should participate actively in the global LEI exercise, establish protocols for information sharing and take efforts to promote cooperative rulemaking among global regulators. This cooperation is essential to ensure that a regulatory regime is put in place that does not interfere with efficient and fair markets, provides a level playing field for all market participants, both domestically and internationally, and provides adequate market information for regulators to discharge their obligations.

Equally important is the ability for Canadian regulators to agree on a workable harmonized approach in establishing Canada's own framework for derivative regulation that is both effective and efficient. Finally, public access to information from OTC trade repositories should be carefully considered to ensure sufficient safeguards on the functioning of the market.

We thank you for the opportunity to respond on this important initiative and would be pleased to discuss any part of this submission should you have any questions.

Yours sincerely,

A handwritten signature in black ink, appearing to read "J. Mann", with a long horizontal flourish extending to the right.