



International Swaps and Derivatives Association, Inc.

CANADIAN REPRESENTATION LETTER #1

TRADE REPORTING AND OTHER OBLIGATIONS

published on April 23, 2014

by the International Swaps and Derivatives Association, Inc.

Terms We Use in This Letter:

Canadian Person, with respect to a jurisdiction in Canada, means a person or company, that is not an individual, that is organized under the laws of, has its head office in or has its principal place of business in the jurisdiction. For this purpose, “**person**” includes unincorporated organizations such as partnerships, associations, syndicates and trusts, “**company**” includes any incorporated entity, and “**jurisdiction**” means a province or territory of Canada or, with respect to jurisdiction of organization only, the federal jurisdiction of Canada.

Canadian Regulator means a Canadian provincial, territorial, federal or national regulatory authority, body or agency with jurisdiction to regulate derivatives activities or to regulate persons with respect to their derivatives activities, including the Office of the Superintendent of Financial Institutions with respect to the activities of federally regulated financial institutions.

Canadian Regulatory Requirements means Canadian Reporting Requirements and Other Derivatives Rules.

Canadian Reporting Requirements means any applicable laws, rules, regulations, instruments, orders or directives that mandate reporting and/or retention of transaction and similar information issued by any Canadian Regulator, including the TR Rules.

Dealer means a “dealer” as defined under the *Derivatives Act* (Québec) or a “derivatives dealer” as defined under the TR Rules.

Derivative means a derivative as defined in the securities or derivatives legislation, rules or regulations of a relevant Canadian jurisdiction,¹ that is not excluded from the definition by reason of any rule or order of the relevant Canadian Regulator.

Non-Canadian Regulator means any regulatory authority, body or agency with jurisdiction to regulate trade reporting with respect to derivatives activities or to regulate persons with respect to trade reporting in connection with their derivatives activities (including without limitation, the U.S. Commodity Futures Trading Commission or other U.S. regulators in the case of trade reporting under applicable U.S. laws, and the European Securities and Markets Authority and national regulators in the E.U. under the E.U. Regulation No. 648/2012 on OTC derivatives, central counterparties and trade repositories in the case of trade reporting under applicable E.U. laws).

Non-Canadian Reporting Requirements means any applicable laws, rules, regulations, instruments, orders or directives that mandate reporting and/or retention of transaction and similar information issued by any Non-Canadian Regulator.

Other Derivatives Rules means laws, rules, regulations and instruments of Canadian Regulators with respect to Derivatives that include a substantially similar definition of “local counterparty” to that in the TR Rules or other definitions to which the representations or covenants made in this letter would be directly relevant.

Reporting Party Rules means the Canadian Transaction Reporting Party Requirements published by ISDA as they may be replaced, amended or supplemented from time to time.

Rule 91-507 means OSC and MSC Rule 91-507: *Trade Repositories and Derivatives Data Reporting* and AMF Regulation 91-507 respecting *Trade Repositories and Derivatives Data Reporting*.

¹ At the date of publication of this form of representation letter, the following provinces have adopted a definition of “derivative” – Ontario (*Securities Act*, s.1(1)), Manitoba (*Securities Act*, s.1(1)) , and Québec (*Derivatives Act*, s.3). The meaning of the term “derivative” under the Ontario and Manitoba Securities Acts is “an option, swap, futures contract, forward contract or other financial or commodity contract or instrument whose market price, value, delivery obligations, payment obligations or settlement obligations are derived from, reference to or based on an underlying interest (including a value, price, rate, variable, index, event, probability or thing).”. The meaning of derivative under the Québec Derivatives Act is “an option, a swap, a futures contract, a contract for difference or any other contract or instrument whose market price, value, or delivery or payment obligations are derived from, referenced to or based on an underlying interest, or any other contract or instrument designated by regulation or considered equivalent to a derivative on the basis of criteria determined by regulation”.

TR Rules means Rule 91-507 and equivalent rules, regulations, instruments, directives or orders when finalized by any Canadian Regulator.

Transaction means the entering into, assigning, selling or otherwise acquiring or disposing of a Derivative or the novation of a Derivative.

Introduction

The Ontario Securities Commission (OSC), the Manitoba Securities Commission (MSC) and the Autorité des marchés financiers (AMF), respectively, published Rule 91-507 requiring “reporting counterparties” to report certain derivatives data to “designated” or “recognized” trade repositories² with respect to transactions involving “local counterparties”. The OSC, MSC and AMF have also published companion policies. In these three jurisdictions, for trades involving a “clearing agency” or a Dealer, trade reporting begins on October 31, 2014 and, for trades that do not involve such entities, on June 30, 2015. The securities regulatory authorities in certain of the remaining provinces of Canada have indicated their intention to introduce substantially identical rules by way of a multi-lateral instrument.³ Canadian federally regulated financial institutions may become subject to similar federal or national rules, orders or directives.

It is anticipated that other rules and instruments to be published and finalized by Canadian Regulators with respect to Derivatives will include a substantially equivalent definition of “local counterparty” to that in the TR Rules.

This letter allows you to provide information needed to assess how Canadian Regulatory Requirements do or may apply to Transactions between us.

Please consider each of the five parts of this letter set out below.

I. Local Counterparty Representations

Instructions: Please make the representations in either 1(A) or (B) and either 2(A) or (B).

1. Jurisdiction of Organization, Head Office and Principal Place of Business

(A) Canadian Person

We hereby represent that we are a Canadian Person with respect to the jurisdiction(s) indicated below:

² The terminology in Québec is “recognized” and in Ontario and Manitoba is “designated”.

³ The territorial governments, Prince Edward Island and Newfoundland and Labrador have not stated an intention in this regard.

Instructions: Jurisdiction of organization, head office and principal place of business⁴ could be in the same or different jurisdictions. Select all that apply.

- ☐ Canada⁵
- ☐ Alberta
- ☐ British Columbia
- ☐ Manitoba
- ☐ New Brunswick
- ☐ Newfoundland and Labrador
- ☐ Nova Scotia
- ☐ Ontario
- ☐ Prince Edward Island
- ☐ Québec
- ☐ Saskatchewan
- ☐ Yukon
- ☐ Northwest Territories
- ☐ Nunavut

This representation shall be deemed repeated each time we enter into a Transaction with you unless we have notified you to the contrary in a timely manner in writing prior to entering into such Transaction.

(B) Not A Canadian Person

- ☒ We hereby represent that we are not a Canadian Person with respect to any jurisdiction of Canada.

This representation shall be deemed repeated each time we enter into a Transaction with you unless we have notified you to the contrary in a timely manner in writing prior to entering into such Transaction.

2. Registered to Trade Derivatives

Instructions: Select (A) if you are not a registered Dealer; select (B) if you are.

(A) Not Registered To Trade

⁴ Principal place of business refers to your principal place of business as a whole and not the principal place of your derivatives business.

⁵ Applies with respect to federally incorporated companies or entities organized under federal law. If you are such an entity, local counterparty status for purposes of provincial or territorial Canadian Regulatory Requirements, if applicable, will be determined on the basis of location of your head office and/or principal place of business.

- ☒ We hereby represent that, under securities or derivatives laws, we are not registered as a Dealer, or in an alternative category⁶ as a consequence of trading in Derivatives, in any jurisdiction in Canada.

This representation shall be deemed repeated each time we enter into a Transaction with you unless we have notified you to the contrary in a timely manner in writing prior to entering into the Transaction.

(B) Registered to Trade

We hereby represent that, under securities or derivatives laws, we are registered as a Dealer, or in an alternative category as a consequence of trading in Derivatives, in the following specified jurisdictions:

Instructions: Select any that apply.⁷

- ☐ Canada⁸
- ☐ Alberta
- ☐ British Columbia
- ☐ Manitoba
- ☐ New Brunswick
- ☐ Newfoundland and Labrador
- ☐ Nova Scotia
- ☐ Ontario
- ☐ Prince Edward Island
- ☐ Québec
- ☐ Saskatchewan
- ☐ Yukon
- ☐ Northwest Territories
- ☐ Nunavut

This representation shall be deemed repeated each time we enter into a Transaction with you unless we have notified you to the contrary in a timely manner in writing prior to entering into the Transaction.

II. Additional Representations for Local Counterparty Determination

Instructions: Please select one of representation (A) or (B) below.

⁶ The reference to registration in an alternate category includes reference to registration as a large derivative participant. This regime is not yet in place in any jurisdiction.

⁷ The option to select any jurisdiction in which dealer registration rules are not yet in effect will become available as these rules are brought into effect.

⁸ This will be relevant to any federal or national Canadian Regulatory Requirements.

This information is needed because the TR Rules do (and the Other Derivatives Rules may) apply to Transactions with you if you are not a Canadian Person in a particular jurisdiction, but are an affiliate of a Canadian Person with respect to that jurisdiction and that Canadian Person is responsible generally for your liabilities. A Canadian Person may be responsible for your liabilities if it has guaranteed all or substantially all of your liabilities (not only your liabilities under Transactions between us). If you are an unlimited liability company affiliated with a Canadian Person you may have to consider whether your shareholder is responsible for your liabilities.

(A) We Are Not an Affiliate of a Responsible Canadian Person

- ☒ We hereby represent that we reasonably believe that no Canadian Person that is our affiliate is responsible for our liabilities.

This representation shall be deemed repeated each time we enter into a Transaction with you unless we have notified you to the contrary in a timely manner in writing prior to entering into such Transaction.

(B) We Are An Affiliate of a Responsible Canadian Person.

We hereby represent that we reasonably believe that a Canadian Person with respect to the jurisdiction(s) specified below, that is our affiliate, is responsible for our liabilities.

Instructions: You may be required to select more than one jurisdiction. If any affiliated Canadian Person responsible for your liabilities is incorporated or organized under the federal laws of Canada or of a province or territory, select Canada or that province or territory, as applicable. In addition, if such person or company has its head office and/or principal place of business in a different province or territory, also select that jurisdiction or those jurisdictions. If there is more than one such affiliated entity, select the relevant jurisdiction for each of such entities.

- ☐ Canada⁹
- ☐ Alberta
- ☐ British Columbia
- ☐ Manitoba
- ☐ New Brunswick
- ☐ Newfoundland and Labrador
- ☐ Nova Scotia

⁹ Applies with respect to federally incorporated companies or entities organized under federal law and will be relevant with respect to any federal or national Canadian Regulatory Requirements.

- ☐ Ontario
- ☐ Prince Edward Island
- ☐ Québec
- ☐ Saskatchewan
- ☐ Yukon
- ☐ Northwest Territories
- ☐ Nunavut

This representation shall be deemed repeated each time we enter into a Transaction with you unless we have notified you to the contrary in a timely manner in writing prior to entering into such Transaction.

III. Consent to Disclosure to Regulators and Trade Repositories

Instructions: By executing this letter you indicate your consent to the disclosure of information in accordance with the Canadian Reporting Requirements. If you select the box labelled “All Reporting Requirements” you indicate your additional consent to disclosure in accordance with Non-Canadian Regulatory Requirements.

For purposes of this consent, “**Reporting Requirements**” means any Canadian Reporting Requirements and, if “All Reporting Requirements” is selected, it means any Canadian Reporting Requirements and any Non-Canadian Reporting Requirements, and “**Regulator**” means any Canadian Regulator and, if “All Reporting Requirements” is selected, it means any Canadian Regulator and any Non-Canadian Regulator.

☒ All Reporting Requirements

Notwithstanding anything to the contrary in any non-disclosure, confidentiality or other agreement between us and any other party, we hereby consent to the disclosure of information:

- (a) to the extent required by Reporting Requirements in accordance with which the other party is required to act; or
- (b) to and between the other party’s head office, branches or affiliates, or any persons or entities who provide services to such other party or its head office, branches or affiliates, in each case, in connection with such Reporting Requirements.

We acknowledge that pursuant to global regulatory reform initiatives, regulators require reporting of trade data to increase market transparency and

enable regulators to monitor systemic risk to ensure safeguards are implemented globally.

We further acknowledge that disclosures made pursuant hereto may include, without limitation, the disclosure of trade information including a party's identity (by name, address, corporate affiliation, identifier or otherwise) to any swap or trade data repository or one or more systems or services operated by any trade repository (TR) and any relevant Regulators, and that such disclosures could result in certain anonymous swap transaction and pricing data becoming available to the public. We further acknowledge that, for purposes of complying with regulatory reporting obligations, a party may use a third party service provider to transfer trade information into a TR and that a TR may engage the services of a global trade repository regulated by one or more governmental regulators. We also acknowledge that disclosures made pursuant hereto may be made to recipients in a jurisdiction other than that of the disclosing party or a jurisdiction that may not necessarily provide an equivalent or adequate level of protection for personal data as our home jurisdiction. For the avoidance of doubt, (i) to the extent that applicable non-disclosure, confidentiality, bank secrecy, data privacy or other law imposes non-disclosure requirements on transaction and similar information required or permitted to be disclosed as contemplated herein but permits a party to waive such requirements by consent, the consent and acknowledgements provided herein shall be a consent by us for purposes of such law; (ii) any agreement between us and another party to maintain confidentiality of information contained in any agreement between us and the other party or in any non-disclosure, confidentiality or other agreement shall continue to apply to the extent that such agreement is not inconsistent with the disclosure of information in connection with the Reporting Requirements as set out herein; and (iii) nothing herein is intended to limit the scope of any other consent to disclosure separately given by us to another party.

We represent and warrant that any third party to whom we owe a duty of confidence in respect of the information disclosed has consented to the disclosure of that information.

IV. Additional Covenant Re Reporting Responsibility

Instructions: If you are a Registered Dealer in a jurisdiction you do not have to select that jurisdiction in answering this question as you will be a Dealer for purposes of the Canadian Reporting Requirements in that jurisdiction by virtue of the registration. Canadian Reporting Requirements apply to Dealers even if they are not Registered Dealers in the jurisdiction. You may elect to provide this covenant if you are a Dealer in the specified jurisdictions¹⁰ or if

¹⁰ Guidance as to what activities constitute the business of trading in derivatives may be found in Canadian Securities

you are not or may not be a Dealer in the specified jurisdictions, but you are nevertheless prepared to report the transaction data and accept the other obligations of a reporting counterparty as if you were a Dealer in that jurisdiction. If both you and your counterparty agree to the Reporting Party Rules by selecting the covenant in Part V or otherwise, whether or not you will be the reporting counterparty on the basis of this Part IV covenant will be determined by the Reporting Party Rules.

For purposes of the Canadian Reporting Requirements of the jurisdictions specified below, and for those purposes only, we hereby agree to report as if we were a Dealer:

- ☐ Canada¹¹
- ☐ Alberta
- ☐ British Columbia
- ☐ Manitoba
- ☐ New Brunswick
- ☐ Newfoundland and Labrador
- ☐ Nova Scotia
- ☐ Ontario
- ☐ Prince Edward Island
- ☐ Québec
- ☐ Saskatchewan
- ☐ Yukon
- ☐ Northwest Territories
- ☐ Nunavut

This covenant is not a representation that we are a Dealer in any of the above selected jurisdictions.

Administrators Consultation Paper 91-407 Derivatives Registration.

¹¹ This selection will be relevant with respect to federal or national Canadian Regulatory Requirements, if applicable.

V. Agreements regarding Reporting Party Rules

Instructions: If you are potentially a reporting party under Canadian Reporting Requirements, select (A) to agree to be within the Dealer category in the Reporting Party Rules and to agree to the Reporting Party Rules.

If you do not select (A), you may select (B) to agree to the process in the Reporting Party Rules for determining the counterparty that will report transaction data in situations where both parties have a reporting obligation. You will not, however, be a Dealer for purposes of the Reporting Party Rules unless you have made the representation in I.2(B), you otherwise establish that you are a Registered Dealer or a Dealer or you select (A) below.

(A) Deemed Dealer for Reporting Party Rules

☐ We agree to be deemed to be a Dealer for the purpose of the Reporting Party Rules and agree to the process set out in the Reporting Party Rules, unless we have agreed to a different method of determining the reporting counterparty in any other agreement with you.

(B) Agreement to Reporting Party Rules


☒ We agree to the process set out in the Reporting Party Rules, unless we have agreed to a different method of determining the reporting counterparty in any other agreement with you.

Executed and delivered with effect from the date first written

above: Moray Offshore Windfarm (West) Limited

[LEI/CICI: 529900ZK1VKE58H00T78

[Alternative Identifier:]¹³

By:  _____

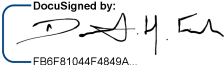
Name: Matteo Maino

Title: Director

Email: matteo.maino@oceanwinds.com

¹² If this letter is being delivered by an agent or mandatary on behalf of one or more principals, the agent should insert “as agent for [name of principal][the principals named on the attached sheet].” If the agent is acting on behalf of more than one principal, (i) it may list the names of such principals on a separate sheet and (ii) this letter should be treated as if it were a separate letter with respect to each principal listed on such sheet. Similarly, if this letter is being delivered by a trustee on behalf of one or more trusts or trust funds, the trustee should insert “as trustee for [name of trust or trust fund][the [trusts][trust funds] named on the attached sheet].” The LEI/CICI or Alternative Identifier should be provided for each principal and fund.

¹³ If you would like to include an alternative identifier, please describe the type of identifier provided.

By: 
Name: Daniel Henry Finch
Title: Director
Email: dan.finch@oceanwinds.com