



Manitoba Financial
Services Agency

MSC STAFF NOTICE 2024-17

Blanket Order 93-931 Exemption from Record Retention Requirements in National Instrument 93-101 Derivatives: Business Conduct

September 26, 2024

On September 28, 2023, the CSA published National Instrument 93-101 *Derivatives: Business Conduct* (the **Business Conduct Rule**) which comes into force on September 28, 2024 (the **Effective Date**). It includes a record retention requirement in section 36.(1) for the records required to be maintained under the Rule that is 8 years in Manitoba and 7 years in other jurisdictions.¹ The 8 year requirement for Manitoba was included in the Business Conduct Rule to align with the 8 year limitation period in section 137 of the *Securities Act* (Manitoba) (the **Act**) for prosecutions of offences. This provision was published on two prior occasions and did not receive comment from industry.

Recently, Staff received submissions from certain derivatives market participants about the 8-year record retention requirement in Manitoba. Concerns were expressed about the burden imposed on industry by this requirement and the difficulty of retaining the records for an additional year as compared to other jurisdictions. The Manitoba Securities Commission has issued Blanket Order 93-931 Exemption from Record Retention Requirements in National Instrument 93-101 Derivatives: Business Conduct to ensure the record retention requirement is harmonized with the other jurisdictions. The Blanket Order comes into force on the Effective Date.

Staff note that the limitation period in section 137 of the Act for prosecutions of offences remains 8 years. Market participants should consider that limitation period when dealing with issues related to record retention.

Any questions can be referred to Leigh-Anne Mercier, General Counsel by email to leigh-anne.mercier@gov.mb.ca.

¹ **36.(1)** The records required to be maintained in this Instrument must be kept in a safe location, readily accessible and in a durable form for a period of,

- (a) except in Manitoba, 7 years from the date the record is created, and
- (b) in Manitoba, 8 years from the date the record is created.



Manitoba
Financial Services
Agency

Order No. 7662

Date: September 26, 2024

THE SECURITIES ACT)
)
Subsection 20(1))
)
National Instrument 93-101)

MANITOBA SECURITIES COMMISSION
BLANKET ORDER 93-931

Re: Exemption for derivatives firms from record retention requirements under
National Instrument 93-101 *Derivatives: Business Conduct Rule*

WHEREAS

(A) Staff of The Manitoba Securities Commission (the **Commission**) seeks an exemption from derivatives reporting requirements under National Instrument 93-101 *Derivatives: Business Conduct Rule*.

Definitions

(B) Terms defined in the *Securities Act* (Manitoba) (the **Act**), Local Rule 14-501 *Definitions* and National Instrument 93-101 *Derivatives: Business Conduct* (the **Business Conduct Rule**) have the same meaning in this Order.

Background

(C) On September 28, 2023, the Manitoba Securities Commission (the **Commission**) published the Business Conduct Rule. The Business Conduct Rule comes into force on September 28, 2024 (the **effective date**).

(D) Section 36.1(b) of the Business Conduct Rule provides that records required to be maintained under the Rule must be kept in a safe location, readily accessible and in a durable form for a period of

(a) except in Manitoba, 7 years from the date the record is created, and

(b) in Manitoba, 8 years from the date the record is created.

(E) After publication of the advanced notice of adoption of the Business Conduct Rule on September 28, 2023, staff of the Commission received submissions from certain derivatives market participants that retaining records for 8 years in Manitoba, instead of 7 years as in other jurisdictions, would result in significant costs and be difficult to implement.

(F) As a result, staff of the Commission received a request to exempt derivatives firms from the 8-year record keeping requirement in Manitoba.

Exemptive Relief

(G) The proposed exemption will harmonize the record retention requirement in Manitoba with other jurisdictions.


IT IS ORDERED:

1. **THAT**, considering that it would not be prejudicial to the public interest to do so, the Commission orders under subsection 20(1) of the Act that a derivatives firm is exempt from section 36.1(b) of the Business Conduct Rule provided that the records required to be maintained in the Business Conduct Rule must be kept in a safe location, readily accessible and in a durable form for a period of 7 years from the date the record is created.

Effective Date

(H) This Order comes into effect on September 28, 2024.

BY ORDER OF THE COMMISSION:



Chris Besko
Director