

## Headnote

National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions – Coordinated review – Derivatives trade reporting obligations – Application for relief from the requirement to report valuation data to a recognized trade repository daily where identical valuation data reported by counterparty pursuant to paragraph 33(1)(a) of each of Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting*; Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting*; and Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting**

## Applicable Legislative Provisions

Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* s. 42

Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* s. 42

Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting* s. 43

**Citation: Re Concentra Bank, 2018 ABASC 122**

**Date: 20180727**

In the Matter of  
The Securities Legislation of  
Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador,  
Nova Scotia, Ontario, Prince Edward Island and Saskatchewan  
(the **Jurisdictions**)

and

In the Matter of  
The Process for Exemptive Relief Applications in Multiple Jurisdictions

and

In the Matter of  
Concentra Bank  
(the **Filer**)

Decision

## Background

The securities regulatory authority or regulator in each of the Jurisdictions (each a **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) pursuant to section 43 of Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting* (**MI 96-101**); section 42 of Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (**MSC Rule 91-507**); and section 42 of Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (**OSC Rule 91-507**); as applicable, exempting the Filer from the

requirement to report valuation data, based on industry accepted valuation standards, to a recognized trade repository daily based on relevant closing market data from the previous business day pursuant to paragraph 33(1)(a) of each of MI 96-101, MSC Rule 91-507 and OSC Rule 91-507 (collectively, the **Reporting Rules**), as applicable, provided that the Filer reports valuation data, based on industry accepted valuation standards, to a recognized trade repository quarterly, as of the last day of each calendar quarter, no later than the 30<sup>th</sup> day after the end of each calendar quarter pursuant to paragraph 33(1)(b) of each of the Reporting Rules, as applicable (the **Requested Relief**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a coordinated review application):

- (a) the Financial and Consumer Affairs Authority of Saskatchewan (**FCAA**) is the Principal Regulator for this application; and
- (b) the decision is the decision of the Principal Regulator and evidences the decision of the other Decision Makers.

### **Interpretation**

Terms defined in National Instrument 14-101 *Definitions* have the same meaning if used in this decision, unless otherwise defined.

### **Representations**

This decision is based on the following facts represented by the Filer:

1. The Filer is continued as a Schedule I bank under the *Bank Act* (Canada) effective as of January 1, 2017. It is regulated federally by the Office of the Superintendent of Financial Institutions. Prior thereto, the Filer was a retail association defined and governed by the *Cooperative Credit Associations Act* (Canada). The Filer's head office is in Saskatoon, Saskatchewan. Accordingly, the FCAA has been selected as the Principal Regulator for this Application.
2. The Filer provides financial intermediation and trust services to Canadian credit unions and associated commercial and retail customers. Its services include loan syndication and securitization, deposits, foreign exchange, and financial consulting, including interest rate derivatives.
3. The Filer supports Canadian credit unions in their access to financial derivatives. As individual credit unions do not have the business volume to be supported by the major derivative sell-side participants, the Filer operates as an intermediary to facilitate the risk mitigation activities of credit unions and their members/clients. Accordingly, the Filer provides interest rate swaps, bond forwards and foreign exchange forwards to its credit union members. The Filer's derivatives business is limited to clients located in the Jurisdictions.
4. Each derivative entered into by the Filer with a credit union that is a local counterparty in a Jurisdiction (**Customer Transaction**) is immediately offset with an identical, opposite transaction (**Hedge Transaction**) entered into by the Filer with another Canadian

Schedule I bank or a bank governed by the laws of the United States of America or a jurisdiction thereof (each, a **Bank Counterparty** and collectively, the **Bank Counterparties**). Each Hedge Transaction is entered into on a one-to-one basis with its corresponding Customer Transaction and is reportable under the Reporting Rules.

5. The Filer understands that it meets the definition of “derivatives dealer” under the Reporting Rules because it acts as an intermediary between its credit union members and the Bank Counterparties in connection with the above-mentioned derivative transactions, and, as a result, but for the Previous Decision referred to below, would be subject to the requirement under the Reporting Rules to report valuation data on a daily basis.
6. In order to ensure that its customers are not subject to any reporting obligation under the Reporting Rules, the Filer has covenanted, in its Canadian Representation Letter #1, in the form published by the International Swaps and Derivatives Association, Inc. (**ISDA**) on April 23, 2014, to report under the Reporting Rules as if it were a “derivatives dealer”.
7. The Filer has previously applied for and obtained identical exemptive relief from certain of the Reporting Rules, initially in Ontario and Manitoba pursuant to a decision dated October 30, 2014, and subsequently in each of Saskatchewan, Alberta, British Columbia, Nova Scotia, Ontario and Manitoba pursuant to a decision dated July 29, 2016 (the **Previous Decision**). The Filer currently reports all reportable Customer Transactions in accordance with the Previous Decision.
8. The Filer currently has engaged in 125 derivatives transactions with 11 credit unions (2 in Manitoba, 2 in Saskatchewan, 1 in Prince Edward Island, 4 in Ontario, 2 in Nova Scotia and none in Alberta, British Columbia, New Brunswick and Newfoundland and Labrador) for the period January 1, 2018 to May 31, 2018. The total volume of derivatives transactions for the period January 1, 2018 to May 31, 2018 was \$357 million.
9. The Filer is not in default of securities legislation in any of the Jurisdictions.
10. As described above, each time that the Filer enters into a derivatives transaction with a member, it hedges its obligations under that Customer Transaction by entering into a Hedge Transaction with a Bank Counterparty. Each Hedge Transaction is, or will be, reported under the Reporting Rules by the Bank Counterparty.
11. Under the ISDA Methodology each Bank Counterparty is, or will be, a reporting counterparty to each Hedge Transaction between the Filer and the Bank Counterparty. Accordingly, the Filer understands that each Bank Counterparty reports, or will report, valuation data under subsection 33(1)(a) of each of the relevant Reporting Rules on a daily basis for each Hedge Transaction between it and the Filer. As the valuation data for a Customer Transaction and for its corresponding Hedge Transaction is, or will be, the same, except for a minor spread that may apply to a Customer Transaction, the valuation data for a Customer Transaction is effectively reported when the Bank Counterparty reports the valuation data in respect of the corresponding Hedge Transaction.

12. The Filer submits that it should be exempt from the requirement to report valuation data on a daily basis and, instead, report valuation data on a quarterly basis given:
- (a) the small number of its Customer Transactions;
  - (b) the minimal notional value of each of its Customer Transactions;
  - (c) valuation data in respect of each Customer Transaction is, or will be, identical to the valuation data in respect of the corresponding Hedge Transaction (except to the extent that a minor spread may apply to a Customer Transaction, which is not included in the Hedge Transaction), which latter valuation data is, or will be, reported daily by the Bank Counterparty; and
  - (d) the cost to the Filer of implementing daily valuation reporting capability.
13. For the reasons provided above, the Filer submits that it would not be prejudicial to the public interest to grant the Requested Relief.

### **Decision**

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that:

- (a) the Filer reports valuation data in accordance with subsection 33(1)(b) of each of the relevant Reporting Rules based on industry accepted valuation standards for each of its Customer Transactions by the 30<sup>th</sup> day after the end of each calendar quarter;
- (b) each applicable Customer Transaction that is reported by the Filer in accordance with subsection 33(1)(b) of each of the relevant Reporting Rules and this decision is supported by a Hedge Transaction with a Bank Counterparty; and
- (c) the Filer, within 30 days of the date of this decision, provides an undertaking to each securities regulatory authority or regulator that upon request, the Filer will promptly provide information to assist in linking a Customer Transaction to its corresponding Hedge Transaction.

This decision expires three years from the date of this decision.

*“original signed by”*

---

Dean Murrison  
 Director, Securities Division  
 Financial and Consumer Affairs Authority of  
 Saskatchewan