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September 12, 2011

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Manitoba Securities Commission  
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**Re: Canadian Securities Administrators (CSA) Consultation Paper 91-402 on  
Derivatives: Trade Repositories (the TR Consultation Paper)**

Dear Members of the CSA Derivatives Committee:

BP Canada Energy Company and its affiliates (BP Canada) buy and sell hydrocarbon production and requirements for the BP Group. As such, it is a major purchaser, marketer and trader of Canadian natural gas and is a major trader of crude oil and purchaser of Canadian crude oil for BP's refineries in the United States. BP Canada welcomes the opportunity to provide comments on Consultation Paper 91-402 setting forth the CSA Derivatives Committee's (Committee) framework for proposed rules for the reporting of over-the-counter (OTC) derivatives transactions and the operation of trade repositories.

BP Canada understands well the impetus that is driving the CSA and its members to timely develop a regulatory framework for the Canadian OTC derivatives market that both accords

with international practice and allows the various Canadian regulators to fulfill their regulatory oversight responsibilities. In this regard, BP Canada supports the CSA efforts and commitment to the harmonization, where possible, of new rules and the CSA's desire to further study more tailored regulation to meet the needs of the Canadian OTC derivative market.

As noted by the CSA, the Canadian OTC derivatives market comprises a relatively small share of the global market. Of that market, the majority of the OTC derivatives contracts entered into by Canadians are interest rate swaps and foreign currency forwards while commodity OTC derivative transactions are a minority of the transactions. It is from this perspective that BP Canada asks the CSA and the member regulators, as each looks at the needs of the Canadian OTC market in their respective jurisdictions, to continue to recognize that not all OTC derivatives pose systemic risk and that some, such as commodity derivatives, and in particular energy derivatives, have unique characteristics. For example, energy derivatives are unique in that they may allow for physical settlement or be used as physical hedges. It is important that the various elements of a comprehensive OTC regulatory framework be designed to accommodate the specific needs of these types of OTC derivatives market transactions.

BP Canada has had the opportunity to review the comment letter submitted by the International Swaps and Derivatives Association, Inc. (ISDA) and agrees in principle with the comments therein. BP Canada will not repeat the comments submitted by ISDA, but will limit its comments on Consultation Paper 91-402 to the below 4 points, which are of particular interest to BP Canada as a purchaser, marketer and trader of crude oil and natural gas.

### **1. *Mandated Canadian Repository***

BP Canada acknowledges the CSA's need to study the feasibility of mandating the use of a Canadian trade repository to accept OTC derivative trade reporting from Canadian counterparties and the different options for such a Canadian based trade repository that would also act as a data aggregator. However, in BP Canada's view, the preferred option, to the extent possible, is the use of "memorandums of understanding" with U.S. and other international regulators that permit free exchange of information on as needed basis relative to the exercise of the regulators' mandate.

If, after study, it is determined that a Canadian trade repository is required, then BP Canada believes it is critical that the data required be consistent in format and parameters with any global trade repository that might be developed. Further, it would be an advantage if such trade repository is capable of accepting trade feeds from global trade repositories so that market participants can efficiently feed their trade data through one channel.

If a local trade repository requires market participants to provide the trade data separately, not utilizing the global trade repositories, it is important that the local trade repository allows trade feeds from existing commonly used electronic confirmation platforms. The trade data that is required should also specifically follow global standards, as this will lead to significant cost savings for all market participants.

Much work is already ongoing in this area through IOSCO and ISDA, and BP Canada believes it is important to let the market lead in the development of efficient trade repositories that are fit for purpose both for the applicable regulators and for market participants.

## **2. Safe-Harbour Provisions**

To the extent that the Committee is unable to provide clear definitions relating to such matters as “collateral information” or “Canadian referenced derivatives” and this creates legal and regulatory uncertainty, we would encourage the Committee to include appropriate safe-harbour provisions for market participants making demonstrative, good faith efforts to comply with applicable reporting and record keeping requirements.

## **3. Real Time Reporting**

The CSA has asked for comments regarding what is required to enable Canadian derivatives market participants to be able to report derivatives transactions in real time and how long it will take to achieve this functionality. Unfortunately, it is difficult for BP Canada to respond in a specific way to this question at this time, other than as set out in the following paragraphs.

As was expressed in the comment letter of January 14, 2011 filed by the Working Group of Commercial Energy Firms, there are many jurisdictional, pragmatic and technological issues yet to be addressed regarding reporting and based on what is known today, it is impossible to define what needs to be done to facilitate what is referred to as “real time reporting”. To do so requires more clarity and understanding regarding not only what specific data (and related system changes) are needed to meet the needs of the various regulators and which entities will be required to report (for example, exemptions for end users has not yet been defined, nor is there clarity whether reporting of affiliate transactions will be required) but also, the question of the need for all OTC transactions to be reported on the same “real time” basis given that not all OTC derivatives transactions contribute to systemic risk (for example - energy derivatives) .

In our view, it is premature to be asking what needs to be done to enable real time reporting. In the absence of clarity on the issues referenced above, market participants may be required to retain more data than is necessary to comply with uncertain requirements. Doing so would be unnecessary and costly, especially for non-financial end users. In light of the many other consultation papers that the Committee has indicated it will be issuing this year, the Committee should prioritize efficiency and resources by providing market participants with clarity and guidance as to which transactions will be subject to “real time” reporting requirements.

In any event, BP Canada advocates that regulators allow sufficient time for those required to report to make the necessary modifications to their technology and systems to make it possible to meet such reporting requirements. We believe that it would be difficult to implement such reporting prior to the end of 2012 as it is foreseeable that this would necessitate some degree of manual intervention in current systems and technology and would impose changes in systems priorities for market participants, which is both inefficient and expensive. Not affording market participants sufficient time to make any necessary systems modifications may also result in market participants choosing to curtail or restrict their current OTC activities until such time as they are confident their systems can accommodate any new reporting requirements.

## **4. Conclusion**

BP supports tailored regulation that brings transparency and stability to the energy derivative markets in Canada. We appreciate the balance Canadian regulators must strike between effective regulation and not hindering the energy derivative markets. Therefore, BP Canada

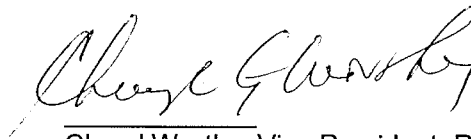
anticipates remaining active in response to the various regulatory reform initiatives that will form the basis of the future consultation papers to be released by the CSA over the remainder of 2011.

Also, because the matters raised in each of the consultation papers are related and together will form a comprehensive framework for the regulation of the Canadian OTC derivations market, BP Canada suggests that the CSA have a further round of consultation regarding the comprehensive framework, to ensure that all the individual components work together to achieve the goals the CSA has set out. Such a review also would ensure that market participants have an opportunity to comment on all new information released as the CSA progresses the various consultation papers. For example, since the release of Consultation Paper 91-402, IOSCO released a new report on OTC derivatives data reporting and aggregation requirements and we have had limited time to digest its potential global and or national implications.

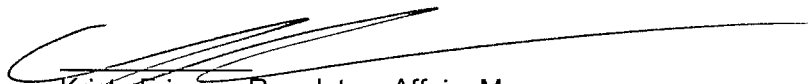
BP Canada thanks the CSA for the opportunity to comment and respectfully requests that the Committee consider its comments set forth herein regarding Consultation Paper 91-402.

If you have any questions, or if we may be of further assistance, please contact the undersigned.

Respectfully submitted,



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