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submitted via Email

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Financial and Consumer Services Commission (New Brunswick)
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Nova Scotia Securities Commission
Nunavut Securities Office
Ontario Securities Commission
Office of the Superintendent of Securities, Newfoundland and Labrador
Office of the Superintendent of Securities, Northwest Territories
Office of the Yukon Superintendent of Securities
Superintendent of Securities, Department of Justice and Public Safety,
Prince Edward Island

c/o

1) Josée Turcotte, Secretary
Ontario Securities Commission
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2) Anne-Marie Beaudoin, Corporate Secretary
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››› CSA Notice and Request for Comments – Proposed National Instrument 94-101 Mandatory Central Counterparty Clearing of Derivatives, dated February 12, 2015

Date: 11-05-2015

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Ladies and Gentlemen:

We are submitting this comment letter in response to the Notice and Request for Comments on the Proposed National Instrument 94-101 Mandatory Central Counterparty Clearing of Derivatives (the "Clearing Rule") and the Proposed Companion Policy 94-101CP Mandatory Central Counterparty Clearing of Derivatives (the "Clearing CP"), both dated February 12, 2015 (together the "Proposed National Instrument"), issued by the Canadian Securities Administrators (the "CSA"). We appreciate the opportunity to further comment on the proposed requirements on mandatory central counterparty clearing and, in particular, on the non-application rule of section 6 of the Clearing Rule set forth in the Proposed

National Instrument. This letter should be read together with our letter relating to the CSA Staff Notice 91-303 – Proposed Model Provincial Rule on Mandatory Central Counterparty Clearing of Derivatives, dated December 19, 2013, which we submitted on March 18, 2014.

We have reviewed both the Clearing Rule and the Clearing CP and have noted that the CSA propose to extend the scope of non-application of section 5 of the Clearing Rule to transactions to which a "*government of a foreign jurisdiction*" (section 6 paragraph (a) of the Clearing Rule) or "*an entity wholly owned by a government referred to in paragraph (a) whose obligations are guaranteed by that government*" (section 6 paragraph (c) of the Clearing Rule) is a counterparty. We also note that these amendments have been made to address the requests of two commenters (Comment Summary and CSA Responses to Former Section 10 – Non-Application). We very much appreciate the responsiveness of the CSA in this respect.

However, we think that section 6 of the Clearing Rule requires some more clarification with respect to the following aspects:

1. Section 6 paragraph (a) of the Clearing Rule excludes the "*government of Canada, the government of a jurisdiction of Canada or the government of a foreign jurisdiction*" from application of section 5 of the Clearing Rule. We would interpret the term "*a government of a foreign jurisdiction*" to include both governments on the sovereign/central government level in a foreign jurisdiction as well as governments on the sub-sovereign level (i.e. province, state or equivalent political sub-division) in that foreign jurisdiction. This interpretation rests on the observation that in the case of Canada both the "*government of Canada*" and the "*governments of a jurisdiction of Canada*" are referred to in paragraph (a) of the Clearing Rule.

2. With respect to the expression "*wholly owned by a government referred to in paragraph (a)*" in section 6 paragraph (c) of the Clearing Rule, we would like to suggest to adjust that expression so that it clearly includes entities wholly owned by one *or more* governments referred to in paragraph (a), since a literal interpretation of the term "*a government*" would not serve the purpose of excluding government owned entities that are wholly owned by more than one of the governments referred to in paragraph (a). However, we think that there is no reason why entities that are wholly owned by more than one government of a foreign jurisdiction should not be eligible for the exclusion from applicability of section 5 of the Clearing Rule, if full ownership by each and any of those governments of that foreign jurisdiction would make that entity eligible therefor.

3. Regarding the provision that requires the obligations of the entity referred to in section 6 paragraph (c) of the Clearing Rule to be guaranteed by the government referred to in section 6 paragraph (a) of the Clearing Rule that wholly owns the entity, we would interpret that the entity could be guaranteed by one or more of the government(s) that fully own(s) the entity as long as all or substantially all the liabilities of the entity are covered by one or more government(s) referred to in paragraph (a).

Based on the foregoing, we respectfully request that the CSA clarify the above described aspects of section 6 of the Clearing Rule either by appropriately adjusting the relevant paragraphs in the Clearing Rule or by giving appropriate interpretative guidance in the Clearing CP.

Thank you very much for your consideration of our comments and please do not hesitate to contact us if you have questions or would find further background helpful. We have sent a copy of this letter to the Federal Ministry of Finance of Germany in its capacity as KfW's owner and in its capacity as KfW's legal supervisory authority.

Sincerely,

KfW

Name: Andreas Müller
Title: Senior Vice President

Name: Dr. Frank Czichowski
Title: Senior Vice President and Treasurer