

CHAPTER 93
CONDUIT DERIVATIVE TRANSACTIONS

Chapter exempt from chapter rescission pursuant to Iowa Code section 17A.7

191—93.1(511,521A) Purposes. The purposes of these rules are to set standards for aggregated derivative transactions among affiliates in an insurance company holding system, to set standards for conduit derivative transactions between a conduit and external qualified counterparties, and to define which aggregated derivative transactions and conduit derivative transactions are not subject to the provisions of Iowa Code section 521A.5(1) “b,” “c”(3), and “e.”

191—93.2(511,521A) Definitions. For purposes of this chapter, the following definitions shall apply:

“*Affiliate*,” or “*affiliate of*” a specific person, means a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

“*Aggregated derivative transaction*” means a derivative transaction entered into between any affiliate within an insurance holding company system and a conduit, which transaction may be aggregated by the conduit with other derivative transactions between the conduit and other affiliates within the insurance holding company system and replicated by the conduit with qualified counterparties. An aggregated derivative transaction does not include an individual derivative transaction between an insurer and a conduit subject to Iowa Code section 521A.5(1) “b.”

“*Conduit*” means a corporation, limited liability company, partnership or other similar form of business organization within an insurance holding company system which engages in the business of conduit derivative transactions.

“*Conduit derivative transaction*” means a derivative transaction entered into between a conduit and a qualified counterparty that is not within the conduit’s insurance holding company system and that replicates one or more aggregated derivative transactions.

“*Control*” means the same as defined in Iowa Code section 521A.1(3).

“*Custodian bank*” means the same as defined in Iowa Code section 511.8(21) “a”(2).

“*Derivative*” means an agreement, option, instrument, or any series or combination of agreements, options, or instruments that provides for either of the following:

1. To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu of such delivery or relinquishment; or
2. Which has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value, or cash flow of one or more underlying interests.

“*Derivative*” includes options, warrants not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures and any other agreements, options or instruments substantially similar thereto or any series or combination thereof.

“*Derivative transaction*” means a transaction based upon a derivative.

“*Domestic insurer*” means the same as defined in Iowa Code section 521A.1(4).

“*Insurance holding company system*” means the same as defined in Iowa Code section 521A.1(5).

“*Person*” means the same as defined in Iowa Code section 521A.1(7).

“*Qualified counterparty*” means:

1. A qualified exchange;
2. A transaction entered into with, or guaranteed by, a business entity with an investment grade rating by the National Association of Insurance Commissioners (NAIC) Securities and Valuation Office or by a majority of nationally recognized statistical rating organizations (NRSRO), on the NAIC/NRSRO list, that rate the business entity;
3. A qualified foreign exchange; or
4. A derivative instrument issued or written by, or entered into with, the issuer of the underlying interest on which the derivative instrument is based.

“*Qualified exchange*” means the same as defined in rule 191—49.2(511).

“*Qualified foreign exchange*” means the same as defined in rule 191—49.2(511).

191—93.3(511,521A) Provisions not applicable.

93.3(1) Iowa Code section 521A.5(1)“b” shall not be applicable to an aggregated derivative transaction or to a conduit derivative transaction that complies with this chapter.

93.3(2) Iowa Code section 521A.5(1)“c”(3) shall not be applicable to an aggregated derivative transaction or to a conduit derivative transaction that complies with this chapter.

93.3(3) Iowa Code section 521A.5(1)“e” shall not be applicable to an aggregated derivative transaction or to a conduit derivative transaction that complies with this chapter.

191—93.4(511,521A) Standards for conduit derivative transactions.

93.4(1) *Documentation.* The conduit shall maintain documentation and records relating to each conduit derivative transaction that shall include, but not be limited to, documentation setting forth:

- a. The purpose or purposes of the transaction;
- b. The specific derivative instrument used in the transaction;
- c. For over-the-counter derivative instrument transactions, the name of the qualified counterparty and the counterparty exposure amount calculated not less than quarterly; and
- d. For exchange traded derivative instruments, the name of the exchange and the name of the firm that handled the trade.

93.4(2) *Trading requirements.* Each derivative that is the subject of a conduit derivative transaction shall be entered into with a qualified counterparty.

191—93.5(511,521A) Internal controls.

93.5(1) Before engaging in an aggregated derivative transaction or a conduit derivative transaction, the conduit shall have established written guidelines that shall be used for effecting and maintaining such transactions.

93.5(2) The guidelines shall:

- a. Address investment or, if applicable, underwriting objectives, risk constraints, and the factors considered in establishing risk constraints such as credit risk limits;
- b. Address permissible transactions and the relationship of those transactions to the conduit's operations, such as a precise identification of the risks being hedged by a derivative transaction;
- c. Set forth a credit risk management system for over-the-counter derivative transactions that measures credit risk exposure using the qualified counterparty exposure; and
- d. Require:
 - (1) Compliance with internal control procedures;
 - (2) That the board of directors of the conduit shall approve the guidelines and determine whether the conduit has adequate professional personnel, technical expertise and systems to implement investment practices involving derivatives;
 - (3) That only the board of directors of the conduit or its authorized designee may approve derivative instrument transactions;
 - (4) That the board of directors of the conduit or its designee exercise administrative oversight of trading functions;
 - (5) Periodic reporting of open positions to a responsible officer designated by the board of directors of the conduit; and
 - (6) That the reports set forth in rule 191—93.6(511,521A) be filed with the Iowa insurance commissioner as required.

191—93.6(511,521A) Reporting requirements for conduit derivative transactions.

93.6(1) *Reporting frequency.* The conduit shall report conduit derivative transaction activities quarterly to the Iowa insurance commissioner.

93.6(2) *Contents of reports.* The conduit shall report conduit derivative transaction activities consistent with Schedule DB reporting requirements as prescribed by the accounting practices and procedures manual of the National Association of Insurance Commissioners.

93.6(3) *Exemptions from reporting requirements.* Upon application, a conduit may be exempted by the insurance commissioner from the reporting requirements of this rule if all of the conduit's obligations

arising out of the conduit's derivative transaction activities are unconditionally guaranteed by a qualified counterparty.

[ARC 8062B, IAB 8/26/09, effective 9/30/09]

191—93.7(511,521A) Conduit ownership. A conduit shall be wholly owned within the insurance holding company system that utilizes the conduit for aggregated derivative transactions and conduit derivative transactions.

191—93.8(511,521A) Exemption from applicability. This chapter shall not apply to any conduit that is not engaging in aggregated derivative transactions with a domestic insurer.

These rules are intended to implement Iowa Code sections 511.8(22) “b,” 521A.2(1) “c,” and 521A.2(3) as amended by 2006 Iowa Acts, Senate File 2364.

[Filed 9/8/06, Notice 8/2/06—published 9/27/06, effective 11/1/06]

[Filed ARC 8062B (Notice ARC 7914B, IAB 7/1/09), IAB 8/26/09, effective 9/30/09]