CANADIAN SECURITIES ADMINISTRATORS' REQUEST FOR COMMENT

ON DISCUSSION PAPER 24-401 ON STRAIGHT-THROUGH PROCESSING, AND PROPOSED NATIONAL INSTRUMENT 24-101 POST-TRADE MATCHING AND SETTLEMENT, AND PROPOSED COMPANION POLICY 24-101CP TO NATIONAL INSTRUMENT 24-101 POST-TRADE MATCHING AND SETTLEMENT

Comments and Questions

You are invited to comment on any aspect of the Documents. In particular, you are asked to respond or otherwise comment on the specific questions set out in the Paper. Please refer to the Paper (under Part IV: Conclusion and Request for Comments). Please submit your comments in writing before July 16, 2004.
Submissions should be sent to all securities regulatory authorities listed below in care of the Ontario Securities Commission in duplicate, as indicated below:

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Securities Administration Branch, New Brunswick
Securities Office, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Nunavut
Registrar of Securities, Yukon Territory

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1903, Box 55
Toronto, Ontario
M5H 3S8
jstevenson@osc.gov.on.ca

Submissions should also be addressed to the *Autorité des marchés financiers (Québec)* as follows:
Madame Anne-Marie Beaudoin
Directrice du secrétariat de l'Autorité
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, Tour de la Bourse
Montréal (Québec) H4Z 1G3
Telephone: 514-940-2199 ext 2511
Fax: 514-864-6381
e-mail: consultation-en-cours@lautorite.qc.ca

A diskette containing the submissions should also be submitted. As securities legislation in certain provinces requires a summary of written comments received during the comment period be published, confidentiality of submissions cannot be maintained.

Question	Response
Question 1: If the CSA were to implement mandatory STP readiness certificates, what should be the subject matter of such certificates?	Whilst we support the process/concept of certification for STP readiness we do not believe that mandatory STP readiness certificates is the appropriate mechanism to ensure STP readiness. Mandating such a process would be difficult to apply consistently and would incur a great deal of expense to the industry. We therefore do not support the use of mandatory STP readiness certificates which require external third party verification. Alternatively we would support a process of self certification against a set of STP guidelines or principles with some form of integrated industry wide testing to ensure these guidelines or principles have been adhered to.
Question 2: Is it important to the competitiveness of the Canadian capital markets to reach STP at the same time as the U.S.? Please provide reasons for your answer. Are there any factors or challenges unique to the Canadian capital markets?	It is not as important for Canada to reach STP at the same time as the US but it is key that the US and Canada (and to an extent the global cross border community) adopt similar processes and standards to maximize operational efficiencies and to remain competitive. Outside of competitive issues, there are operational advantages to having compatible systems and processes with the US for firms like ours that operate in both Canada and the US. However, the key is compatible standards. If Canada and the US both achieve STP at the same time, but with substantially different approaches it will do nothing to address operational issues. When it comes to the Canadian markets, the unique challenge is the relatively small size of our market compared to the US. As a result, firms don't have the financial resources to invest in technology to the same degree as the US. Furthermore, due to the small size of the market, there is not the same scale for technology companies to develop solutions for Canada. The few solutions that exist are typically too expensive for most small firms. It is not necessary to adopt at the same time however once the US adopts, the window for Canada not to adopt will begin to close. Given Canada's relative size to the US, a stand alone, uniquely Canadian solution would not be as cost effective nor as quick to implement as adopting those of the US.

Question	Response
Question 3: Should it be one of the CCMA's tasks to identify the critical path to reach specific STP goals? If so, what steps and goals should be included?	If critical path means an industry critical path, such as achievable industry wide SLA levels (e.g. industry affirmation rates = x) and the timing of the achievement of those levels (e.g. date at which SLA Levels should be met and subsequently improved upon), then if the CSA believes that STP should be industry or regulator enforced then this would be an appropriate task for the CCMA. Under this scenario we do not believe that it is the CCMA's role to identify how each firm achieves STP (i.e. monitor internal firm level projects to assess the state of each firms readiness to meet the STP requirements). Alternatively, we are of the view that STP should be market driven (against a set of guidelines or principles) with each firm making its own financially prudent investment decisions and not enforced. In this sense, the proper role of the CCMA would be to develop guidelines and principles to be applied to the interfaces between various firms to ensure consistency and ease of integration when and if firms decide to implement greater STP.

Question	Response
Question 4: Should the CSA require market participants to match institutional trades on trade date? Would amending SRO rules to require trade matching on T be more effective than the Proposed Instrument? Is the effective date of July 1, 2005 achievable?	No, we would recommend that the CSA should not enforce trade matching on trade date. From our experience, we have not had any significant issues with settlement risk, which is the risk that ultimately T+1 would address, and that STP enables. However, forcing trade matching on trade date would require us to keep staff later at an increased cost to our firm and increased personal impact on our staff with no benefit. We are of the view that shortening the trade matching window will increase operational risk. We believe that an industry best practice of affirmation on T+1 is a good goal, but we do not support an enforced requirement. If the CSA were going to enforce trade date matching, we would not support the use of SRO rules to do so. The issue is that only broker/dealers have representation on SROs while this requirement affects all market participants. Regulating that the buy side and custodial side of the market meet and adhere to these standards is a significant challenge that if not effectively implemented will place the emphasis on the brokers to manage more exceptions at a higher operational cost. At this point, we don't feel the target date of July 1, 2005 is achievable. For bank-owned firms, the budget cycle has already begun for the fiscal Nov/2004-Oct/2005 year. Without a clear requirement passed by the CSA, some of the STP related projects may not have been proposed or approved. Furthermore, for most large firms, these projects may take 12+ months, which would necessitate that they have already been started and may not be the case. In addition, from a broker/dealer perspective the major changes required would be at the service bureaus (ADP and ISM). Our experience with the service bureaus is that it is unlikely they will be able to accommodate a July 1, 2005 start. Finally, we do not believe that the technological solutions required for small firms to comply are not currently available at financially prudent pricing.

Question	Response
Question 5: Is a close of business definition required? If so, what time should be designated as close of business?	As stated in our response to Q4 we do not support the enforcement of Trade matching on Trade date for institutional trades and as such the issue of defining close of business is not relevant. But if it were to be mandated then our views are as follows: We recommend that the definition of close of business be split into two parts. The first is the last trade time for a trade to be executed and to fall under the same day trade matching requirement. We recommend that this time be set at 4:30pm EST and any trades done after say 4.30pm EST be deemed as "next day" trades. The second is the last time for a matched/affirmed trade status to be achieved in CDS for those trades executed before 4:30pm EST. We recommend that this time is set at 7:00pm EST allowing up to 2.5 hours for the latest trades to be matched. We also recommend any *alleged* trades received on trade date after the 4:30 cut-off time (but for trade time before the 4:30pm cut off time) are resolved by say 9.30am next working day. We believe that to extend these deadlines later into the day, even though allowing larger windows for trades executed later in the day (particularly from a West Coast perspective where the trade cut off time would be 1:30pm PST), it will create significant resourcing issues with both traders and operational support staff being required to be available longer into the working day with minimal value being added from a risk perspective to offset this.
Question 6: Should the Proposed Instrument expressly identify and require matching of each trade data element, or is it sufficient for the Proposed Instrument to impose a general requirement to match on T and rely on industry best practices and standards to address the details?	We believe that there should be industry standards developed to support the matching process (including the elements required for matching) by an industry group, but that compliance with these standards should be voluntary. Examples of where this approach has been largely successful include both the FIX protocol, the old ISITC protocol and SWIFT. To regulate that the buy sides, broker sides and custodial sides of the market all agree to a common set of standards and to consistently enforce them will be extremely difficult due to current regulatory frameworks.

Question	Response
Question 7: Should the CSA rely on the best practices and standards established by the CCMA ITPWG?	We don't believe that the CSA should impose any requirements for STP on market participants. We support the development of standards, but believe that market forces will result in the adoption of these standards in manners that are the most financially prudent and competitive for each participant. The standards and guidelines being developed by the CCMA ITPWG are a reasonable starting point and must continue to develop inline with international and US standards and guidelines for the effective implementation of STP in the Canadian market place.
Question 8: The CSA seek comments on the scope of the Proposed Instrument. Have we captured the appropriate transactions and types of securities that should be governed by requirements to effect trade comparison and matching by the end of T and settlement by the end of T+3? Have we appropriately limited the rule to public secondary market trades?	Once again, without endorsing the enforcement of same day trade matching for institutional trades our response is as follows; Appropriate transaction and types appear to have been captured. The Instrument states a trade in a security to be *settled outside Canada* is not included. We feel increased benefits could be gained by including transactions that have been ***traded*** in Canada irrespective of where they are going to settle, or even traded outside of Canada/settled outside of Canada but with Canadian participants/clients. Limiting the scope to public secondary market trades is appropriate with re-evaluation as market trends continue to change not only financial instruments being offered to the public, but the channels of distribution.

Question	Response
Question 9: Is the contractual method the most feasible way to ensure that all or substantially all of the buy side of the industry will match their trades by the end of T?	Trade matching is a tri-party process covering the broker/dealer, investment manager and custodian. The contractual method agreement only covers two of these participants, missing the custodian. Furthermore, the proposed instrument does not address what should be done in situations where the client or custodian fails to adhere to the principles of the contract. The contractual method will incur significant time and energy in all counterparties updating and reviewing new and existing contracts to ensure compliance. We also do not believe it is the role of the broker to take on a policing role from an STP perspective. This will be time consuming and costly and will also incur potential bad faith with some customers. To gain practical implementation of STP through the buy side would require enforcement of standards and principles in the same way as for the broker side of the market. The regulatory framework is far more complex for the buy side, but without such agreement we believe that the enforcement of same day trade matching would be unworkable.
Question 10: Should an exception to the requirement to match a trade on T be allowed when parties are unable to agree to trade details before the end of T and are required, as a result, to correct the trade data elements before matching?	Exceptions must be allowed if same day trade matching for institutional trades was enforced. In the case of fundamental disagreements over trade details, firms may need to talk to traders who have left for the day or retrieve tapes of phone conversations which can take time and again involve staff who may have departed for the day.
Question 11: Should registrants be required to report all exceptions from matching by the close of business on T? If so, who should receive the report (e.g. recognized clearing agency, SROs, and/or securities regulatory authorities)?	Conceptually yes, but we would prefer that the exceptions are centrally generated from the appropriate matching utility, ultimately this being CDS (or an appropriate trade matching utility if not CDS). Reports should be generated as to identify those trades still unmatched by the end of the trade matching deadline on trade date out of CDS. Each participant should identify the known issues for a non match (e.g. alleged trade not known, disagreement on trade price, etc). High level reporting would be created and sent by the central matching utility (i.e. not generated by each individual firm) to SROs and other applicable authorities and be subject to review as part of audits.

Question	Response
Question 12: Is it necessary to mandate the use of a matching service utility in Canada? If so, how would the appropriate centralized trade matching system be identified? Are there institutional investors or investment managers that may not benefit from being forced into an automated centralized trade matching system? Can STP trade matching be achieved without a matching service utility?	We are supportive of a common set of standards and guidelines to support trade matching between brokers, institutional clients and custodians. This could be implemented through the adoption of these standards on a multilateral basis with distributed matching processes within the firms using protocols such as SWIFT and FIX. Alternatively a Central Matching Utility could be utilised for this purpose but we would not propose the mandating of such a service. Our major concern with the Central Matching Utility mechanism is the financial burden it potentially places on the broker dealer community to utilize such a service (e.g. Omgeo charges broker dealers and not the buy side for its services). Also, given the size of the marketplace it is likely that one firm would end up with an effective monopoly which is contrary to the goal to increase competitiveness. We believe the costs imposed by matching utilities could exceed the financial benefits from centralized matching. If a Central Matching Utility was available then our preferred model would be for it to be a not for profit supported mechanism owned within the industry (e.g. by CDS). This would help to alleviate some of our concerns with respect to pricing of such a service. We would also expect the risk model associated with such a service to be more appropriate if the service is run by an industry body such as CDS as opposed to a commercial vendor such as Omgeo or FMC (e.g. fraudulent instruction to CDS based upon trade inputs to the Central matching utility)
Question 13: Should the scope of functions of a matching service utility be broader?	We do not believe that the scope should be broader

Question	Response
Question 14: Are the filing and reporting requirements set out in the Proposed Instrument for a matching service utility sufficient, or should a matching service utility be required to be recognized as a clearing agency under provincial securities legislation?	With respect to the risk profile of such a Central Matching Utility as mentioned in our response to Q12 we recommend that such a service be tightly monitored/regulated. If the owner of such a service were CDS then this would alleviate some of our concerns. One specific risk concern we have centers around these utilities having direct access to our CDS accounts. As a result, the supervision model over these utilities would need to address the financial exposure financial services firms would have to these utilities. For example, if one of the employees of a utility committed fraud and embezzled money from a broker or custodian via the access the utility has to our CDS accounts, how would the affected firm be compensated? Would the utility have the financial resources or insurance to make amends? On the details of the instrument, we do have hesitation on the sufficiency of an independent systems audit without mandated testing standards as one of the conditions qualifying a matching utility.
Question 15: Can the Canadian capital markets support more than one matching service utility? If so, what should be the inter-operability requirements?	We do not believe Canada can support the competitive framework for multiple providers and meet our requirements defined in our responses to Q12 thru Q14. Ultimately only one provider will prevail. The key to inter-operability requirements is the use of open standards (e.g. FIX or SWIFT) for communication rather than proprietary formats. Then Central Trade Matching utility providers can build to a single standard that can be plug-and-played between providers.

Question	Response
Question 16: Should the CSA mandate a T+3 settlement cycle? Should the CSA mandate a T+1 settlement cycle when the U.S. moves to T+1 and the SEC amends its T+3 Rule?	The mandating of T+3 settlement is largely a philosophical question since it will have no impact on the marketplace. The question is how does controlling settlement at the CSA level benefit the capital markets as opposed to controlling it at the SRO level. Since CSA approval is obtained for any SRO rule changes, we fail to see the benefit. We don't believe that the US moving to T+1 without Canada would impact the competitiveness of the Canadian markets. Pricing spreads for interlisted securities will adjust to reflect the financing differences. However, for firms like ours this situation would create operational challenges, particularly in situations where a client trade is partially filled in both markets. As a result, moving to T+1 at the same time as the US would result in operational benefits for firms that operate cross-border. Also, common standards and processes in both markets will help reduce operational issues. The CSA should move as a close follower to the SEC to ensure operational consistency.
Question 17: Should the CSA require the reporting of corporate actions into a centralized hub? If not, is it more appropriate for exchanges and other marketplaces to impose this requirement through listing or other requirements? Who should pay for the development and maintenance of the central hub?	Yes. A centralized hub must cover all issuers and offerors on the major global exchanges for it to add value. Issuers should pay for they control the attributes associated with a financial instrument and are the record keepers. Costs would be covered via one time sign up and ongoing user fees. A proper cost benefit analysis needs to be completed to assess approximate costs and number of potential users. One way of achieving this would be for issuers to provide a XML message to accompany all SEDAR filings that will enable easy importation of a corporate events release into a system appropriately tagged. We would support CSA enforcement of this as it would cover all issuers, including private placements, whereas exchange enforcement would not.
Question 18: Should the CSA wait until a hub has been developed by the industry before it imposes any requirements?	Standards can be developed now with the objective of improving processes using the current methods. These standards would evolve with changes within the infrastructure.
Question 19: Should the CSA require issuers and offerors to make their entitlement payments by means of the LVTS?	No comment

Question	Response
Question 20: If there is a CSA requirement to make entitlement payments in LVTS funds, should the requirement apply only to payments in excess of a certain minimum value? If so, what should that minimum value be?	No comment
Question 21: Should the CSA consider implementing any additional rules to encourage and facilitate the investment funds industry to move towards an STP business model? If so, what issues should be addressed by the CSA?	Yes. Some issues that need to be addressed include: (i) obtaining agreement on technology and process standards; (ii) lack of motivation without a regulatory requirement to implement STP where cost of implementing STP exceeds expected payback from efficiency improvements; (iii) cost of implementing may be prohibitive to a significant portion of the distributor network; (iv) connectivity issues between firms and their internal infrastructure; (v) issue of growth limitations in an industry relying on paper transactions; (vi) leveraging STP technology to not only improve efficiency but address compliance and new regulations as they come into effect; and (vii) enforcing electronic settlement of trades booked electronically. In addition, the CSA should consider implementing additional rules similar to those proposed for client name transactions for segregated, labour sponsored and hedge fund products as these products become more popular and to address inconsistencies in processes between fund companies.
Question 22: Should the CSA develop rules that require the immobilization and, to the extent permitted by corporate and other law, dematerialization of publicly traded securities in Canada?	We are supportive of the principle. If investors want a physical cert. It should be made very expensive as a deterrent. Rules should outline a standardized fee structure that can be charged to clients. Providing this prohibition is counterbalanced with higher fiduciary standards on nominees. The fee charged for physical should be a lot higher and the fee for depositing physical certs. to accounts will be charged after a grace period, lets say 6 months. The committee should advise the financial community of these charges so as to eliminate certificates completely. These deposit charges should be the same throughout financial circles.
Question 23: To the extent DRS systems operate in Canada, should a securities regulatory authority regulate transfer agents that are operating or using such DRS systems?	Follow the USA's lead and set up an equivalent to the DRS operated by the DTCC.

Question	Response
Question 24: Should there be separate DRS systems and should they be required to be inter-operable?	No, Follow the USA's lead and set up an equivalent to the DRS operated by the DTCC (centralized system).
Question 25: Is it sufficient for the Canadian capital markets to rely solely on existing SRO segregation rules? Or, given the growing reliance on the indirect holding system, should the CSA consider an active role in developing comprehensive rules on segregation of customer assets?	No comment (Not related to STP issues)