16 July 2004

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

E-mail: jstevenson@osc.gov.on.ca

Autorité des marchés financiers (Québec)
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
E-mail: consultation-en-cours@lautorite.qc.ca

Dear Sirs and Madams:

Re: CSA's request for comment on discussion paper 24-401 on Straight-Through Processing and Proposed National Instrument 24-101 Post-Trade Matching and Settlement

---

eClientscope Inc. is a specialized consulting firm serving the financial services industry and has been involved with the Canadian Capital Markets Association (CCMA) in establishing and managing the CCMA STP Program Office and has served on many CCMA committees. The following comments reflect eClientscope's views only. (www.eClientscope.com).

The CSA STP discussion paper 24-401 addresses very important issues and we are pleased to have this opportunity to comment.

Question 1: If the industry were to implement mandatory STP readiness certificates, what should be the subject matter of such certificates?

We doubt the necessity or effectiveness of an STP readiness certificate. STP is an evolution towards end-to-end automation inside and outside of the firm that will continue indefinitely. It will be virtually impossible to maintain an unambiguous definition of STP readiness.

If such a certificate were to be implemented, a key initial criterion should be an ability to report with integrity on the firm's matching on T success rate.

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?

When a firm is inefficient, competitive forces come into play: when an industry is less efficient than it could be, the entire country's economy pays the price. We believe there are opportunities to achieve an order of magnitude improvement in Canadian capital markets efficiency.

The USA accepts this view of the urgency of securities market efficiency based on the concerted manner in which the SEC, SIA, DTCC, the Bond Market Association and legislative bodies are addressing trade date confirm/affirm, immobilization/dematerialization of securities certificates, corporate action enhancements, fixed income trading/settlement process enhancements and mutual fund trading process enhancement.

Arguably, the USA will be forced to escalate this quest for efficiency as exchange and depository consolidation continues and establishment of common rules enhances the competitiveness of the European securities market.

If the Canadian Financial Industry fails to keep pace with the USA improvements, it risks harming itself and the entire economy. We note with concern that the new capital markets productivity tools are primarily emanating from USA and European based suppliers. Examples include the advanced trade order management systems, FIX, risk management systems and even core record keeping systems. Canada is recognized for its analytic and technology competencies but does not seem to be involved in the latest generation of securities market tools.

Canadian Capital markets face unique USA competitive challenges due to the relative integration of markets and the lack of geographic, language and cultural barriers as well as the acceptance of network based services by Canadian consumers and businesses.

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?

Yes. Implementation of STP goals requires cross-industry coordination. CCMA is the only body that currently has representation from a broad segment of industry participants. The first goal in this critical path should be to achieve an industry wide and firm specific matching reporting that permits analysis of barriers to STP.

However, until the industry accepts its efficiency problem/opportunity, and reaches consensus as to how STP enhancements will be achieved, progress will be slow. The CCMA is

currently not structured to achieve this consensus. The CCMA can report on progress but can do little to influence it.

In particular, the central role that CDS can/should play does not seem to be accepted. The U.S. securities industry is relying on DTCC to implement many of their key STP enhancements and the industry is allowing DTCC to invest in these solutions. Clarifying the Canadian position vis-a-vis CDS would be constructive.

Question 4(a): Should the CSA require market participants to match institutional trades on trade date?

Yes, the CSA should require market participants to match institutional trades on trade date. A clear indication of CSA resolve to see the Canadian capital markets move to matching on T will instill a sense of urgency and imperativeness among market participants.

Question 4(b): Would amending SRO rules to require trade matching on T be more effective than the Proposed Instrument?

Yes, an approach requiring amendment of SRO rules to require trade matching on T would be more effective than the Proposed Instrument. The drafting and enforcement of effective, detailed institutional trade matching rules requires in-depth, hands-on knowledge of each securities industry segment and an ability to revise rules promptly as technology and requirements change.

We suggest the CSA act in concert with SROs (and other appropriate bodies) to ensure the effective drafting of detailed rules that apply to all market participants involved in the trade matching, including rules related to field level handling of exceptions, tolerance limits and reporting.

Question 4 (c): Is the effective date of July 1, 2005 achievable?

No. The effective date of July 1, 2005 appears ambitious even given the proposed scope restrictions.

We note from recent CCMA statistics that the industry matching on T rate is only 2.02% for equity trades and 6.01% for fixed income trades. It is unlikely that market participants will be able to achieve a literal 100% compliance by July 1, 2005. Flexibility in rule interpretation may avoid an excessive increase in T+1 exceptions.

It's important to factor into matching on T the major electronic and post-trade processing changes needed to achieve the goal as well as the implementation of common trade messaging standards such as Financial Information eXchange protocol as critical milestones. In this regard, Canada appears to be lagging behind other capital markets. An 2003 eClientscope/IDC study on investment manager operational efficiency in which executives of 23 investment management firms who collectively conduct 9 million allocated trades annually were interviewed found that only 1 in 4 buy-side firms have new generation trade order management systems installed or in pilot; and only 23% of investment managers have completed implementation or are rolling out the FIX trade messaging protocol in Canada.

Nonetheless, whether a selected target date is achievable depends largely on the definition of detailed rules. We suggest a balanced approach of tightening rules as industry ability increases is appropriate.

Question 5: Is a close of business definition required? If so, what time should be designated as close of business?

Yes. Every market should have a defined close of business; and it should be no later than the close of business of any underlying markets. Orders received after closing should be accepted for next day processing.

As the recent mutual fund investigations in the U.S. have identified, close of business definitions are critical. More important however is having electronic processes in place that minimize the opportunities for rule and business practice transgressions. As we progressively move towards transaction settlement completion in seconds vs. days the opportunistic doors will slowly close.

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?

No, the Proposed Instrument should not expressly identify each trade data element. We suggest that the CSA impose a general requirement and delegate to the SROs and other regulatory bodies the hands-on task of defining/monitoring/revising each trade data element required in the matching process and encourage (or require as appropriate) SROs and others to manage the detailed rules.

Detailed trade matching requirements will change significantly as STP evolves. This is best handled by SROs. It will be particularly important for them to address what action is to be taken in the case of non-matches and tolerance limits.

Question 7: Should the CSA rely on the best practices and standards established by the CCMA ITPWG?

The CSA and SRO (if our recommendations are accepted) should only rely on the ITPWG best practices as a beginning point. These best practices and standards incorporate the input of many industry participants and are the best snapshot that we have at this time but experience will undoubtedly suggest revisions

As the industry begins implementing solutions the level of detail required will increase. The SROs are best positioned to maintain and enhance the best practices and standards.

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?

The scope of the Proposed Instrument is appropriate for the initial implementation. As time goes on, inclusion of other instruments will be essential for increased scope of STP.

Question 9: Is the contractual method the most feasible way to ensure that all or essentially all of the buy side of the industry will match their trades by the end of T?

No, however it is a reasonable and appropriate second choice. A matching requirement would be more appropriately included in the SRO rules. In the absence of an SRO rule, a contractual approach where broker-dealers enter into a written trade-matching compliance agreement with their investment manager clients that is evenly applied by all brokers and adequately supervised by an SRO to avoid broker shopping is an effective way to ensure buy-side (and sell-side) compliance with the matching on T rules.

The application of this approach will require the ability to report on matching on T rates at a broker level on a day-to-day basis. The Canadian Depository for Securities should be asked to provide sufficiently detailed reports to allow brokers to identify matching on T rates at the investment manager level, failing which each broker should report individually.

Matching on T rates of each broker should be publicly available information, failing which each client investment manager should receive a copy of the firm's results.

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?

There is a need for exception process to deal with situations when the parties to a trade are unable to agree to trade details before the end of T.

These should still be identified by tracking failures to match on T, T+1, T+2 or T+3.

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)?

Individual registrants should only be required to report on matching exceptions in the absence of an industry solution. A preferred reporting approach would be a CDS managed industry solution with performance details at least at the registrant level. This information should be available to regulators SROs and registrants/participants and eventually, the public.

While individual registrants may not need to submit individual reports they are accountable for the results to the regulators and SROs. Regulators will be positioned to take appropriate action to progressively move towards 100% matching on T.

All market participants involved in the institutional trade matching process, not only CSA registrants, should be required to report exceptions. Consultation with other regulatory bodies who have jurisdiction over custodians and others to achieve similar matching on T rules and reporting may be required.

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?

It is not necessary and certainly not desirable to mandate the use of a matching utility. It is possible to achieve matching on T with or without a central matching utility. It is important that market forces be allowed to identify the most efficient and effective solutions.

Question 13: Should the scope of functions of a matching service utility be broader?

We do not support the mandating of a monopolistic utility, but if one exists as a non-mandated service, it should not be prevented from undertaking a broad scope.

The scope of any matching rules should be limited to what elements need to be matched and as previously identified these rules must be able to evolve and do so without regulatory process delays.

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?

The filing and reporting requirements seem reasonable in a commercial environment, however a mandated utility that funnels all Canadian securities trades should be regulated directly. We have no comment as to what type of regulation is most appropriate.

Question 15: Can the Canadian capital markets support more than one matching service utility? If so, what should be the inter-operability requirements?

The ability of Canada to support even one matching utility is open to question, so we have not considered detailed interoperability requirements. If there is more than one matching utility, and they are not seamless in their interoperability characteristics, individual participants will be encouraged to build proprietary matching engines; thereby bringing us back to our initial observation – the industry needs accurate, complete, and timely standards based electronic trade communications; not an industry matching utility.

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 current settlement on T+3 process is a situation where the "If it isn't broken don't fix it" rule should apply. If the U.S. moves to settlement on T+1 based on an SEC rule then CSA should consider implementing a rule that is congruent with any U.S. rule.

Questions 17 and 18

In addition to our previously submission, we would like to comment on CSA's important role in the reference data arena through its ownership on the SEDAR, SEDI and NRD systems. We believe that industry STP progress would be facilitated if CSA were to declare its future intentions for these systems particularly related to data format enhancements

Question 19: Should the CSA require issuers and offerors to make their entitlement payments by means of the LVTS?

We support same-day irrevocable payments via LVTS into CDS by issuers and offerors. However based on the CSA's concern over its authority to mandate such a requirement in all jurisdictions, we suggest that CSA simply identify that it supports CDS imposing a requirement that securities eligible for deposit make entitlement payments via LVTS.

We do not believe that the cost of LVTS payments is an issue and we are puzzled as to why CDS has not declined to accept securities whose issuers do not make entitlement payments in this manner.

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?

Again this is probably a criteria that could be established by CDS. We see no need to establish a minimum threshold, however any rule could provide for CDS to waive the requirement in exceptional cases such as minimal value.

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. The current investment funds industry model is seriously deficient, particularly concerning its independent distribution channel and so-called client name accounts. The industry should use the opportunity of STP to ensure electronic trading and automated compliance.

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?

Immobilization and dematerialization are important parts of enhancing STP processes. A CSA rule that requires that a trade only be initiated after a security is immobilized would position Canada for settlement on T+1. The U.S. is vigorously pursuing immobilization and dematerialization and we should take action to ensure Canada does not fall behind.

The CSA should also consider how book entry recordkeeping within the indirect holding system might be improved to keep broker client recordkeeping systems in sync with CDS nominee accounts. The recent IMGOLD over voting of shares is an indication of a problem.

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?

Regulatory oversight of DRS systems and their operators is appropriate. We understand that six of the seven current transfer agents are regulated trust companies, it seems appropriate

that the current trust company regulators fulfill this role and that the remaining transfer agent be required to acquire trust company credentials.

Question 24: Should there be separate DRS systems and should they be required to be inter-operable?

It is anticipated that each transfer agent will have its own proprietary DRS system. Transfers between direct and indirect holdings should proceed efficiently through each system communicating with CDS.

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?

The protection of client assets is a major focus of regulators. We are not in a position to comment on the effectiveness of existing SRO rules other than observing that they should provide protection that is at least equivalent to SEC Rule 15c3-3.

We thank you for giving consideration to our comments. We at eClientscope strive to contribute to the global competitiveness, efficiency and integrity of the Canadian securities industry, and we would be pleased to respond to questions or comments concerning the material provided herein.

Sincerely yours

William C Harker
Principal
eClientscope Inc.
360 Bay Street, Suite 1010
Toronto ON M5H 2V6
wharker@eclientscope.com

Robert M Smythe
Principal
eClientscope Inc.
360 Bay Street, Suite 1010
Toronto ON M5H 2V6
rsmythe@eclientscope.com

Jackie Chung, CFA
Principal
eClientscope Inc.
360 Bay Street, Suite 1010
Toronto ON M5H 2V6
jchung@eclientscope.com

Encl. Diskette