British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Registrar of Securities, Price Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Nunavut

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Dear Sir and Madam:

Re: Proposed Amendments to NI 24-101 and Companion Policy 24-101CP — Institutional Trade Matching and Settlement

Please consider the following comments on the Proposed Amendments to National Instrument (NI) 24-101 and Companion Policy 24-101CP.

Question 1.a: For what period should the requirement to match no later than the end of T be deferred?
Question 1.b: Should the requirement be deferred indefinitely until such time as global markets shorten their standard T+3 settlement cycles?

There should be no permanent deferral (pending other changes) until a proper assessment of what it would take has been undertaken by The Canadian Depository for Securities Limited and other parts of the clearing and settlement chain. It is prudent systemically and to some extent from an investor protection perspective to move ahead with this analysis.

A major lesson from the September 11, 2001 attacks on the U.S. was that those who had matched transactions done on preceding days were better off than those that had not; similarly, those using straight-through processing methods were better prepared than those that relied on paper-based alternatives. The slowdown in the move towards T+1 settlement because of the risk of a chain of transactions failing — which made (and for the time being makes) sense — is not relevant to the basic premise that earlier matching reduces risk and that free-riders — those with poorer systems — are able to benefit from the investments of

those who act responsibly, while those that have invested in improvements and their clients cannot enjoy the full benefit of these efforts.

More broadly, in a global environment where Canada's financial system has a competitive advantage, at least at present, it is inconceivable *not* to consider requiring minimum matching standards as part of the price of entry to the securities clearing and settlement system. See answers to Questions 2 and 3 below.

Question 2: We seek as much information as possible from stakeholders on the costs and benefits of the requirement to match a DAP/RAP trade no later than the end of T, including any available empirical data. What would be the benefits of moving to matching by midnight on T on July 1, 2015?

While many steps have been taken to mitigate the risk of disastrous loss through back-up sites implemented since September 2001, it would be helpful for the CSA to obtain and share any Securities and Exchange Commission (SEC) or Securities Transfer Association estimates of the impact on the American economy of the financial losses suffered due to the need to re-create information lost on September 11. This is a fundamental requirement as recent trials of the Toronto 18 bomb plot show that an attack on Canada's financial infrastructure is no longer as remote a possibility as it once might have been.

In non-disaster situations, efforts to quantify costs and benefits were undertaken at an industry level early in the decade. The challenge in the case of a cross-industry infrastructure project is that early progress was made in part through concerns about the potential U.S. movement to T+1 and a certain amount of peer pressure through an industry-wide organization with regulatory monitoring. Progress in early stages could be made by tightening procedures and through work-arounds so that many of the benefits were obtained at lower cost. With time, companies then were able to combine some of the systems improvements with other projects aimed at bringing in new products, services and refinements, i.e., revenue. The next step will be more difficult and will not occur equally across the industry without regulatory pressure. It is very likely that the hard upfront costs necessary to make the next changes will outweigh the expected absolute benefits... unless one takes into account the probability (low) times the possible dollar impact of a September-11,-2001-scale disaster in the Canadian financial sector. This explains the need to obtain SEC or STA data and include it in the analysis.

Question 3: What are the costs and benefits of extending the current industry ITM processing times to allow market participants to process their trades beyond the CDS 7:30 p.m. cut-off time until late in the evening on T?

As the capacity already exists to continue some processing after 7:30 p.m. within CDS, first it would useful to understand what can be done to increase matching on T or, put another way, to increase trade entry, reduce data entry errors and accelerate intraday corrections. Secondly, as the timelines of firms in the securities industry, the investment funds industry, service providers, TSX, FundSERV, CDS, the Canadian Payments Association and Bank of Canada are intertwined, a change will not be as clear-cut as simply being a change to CDS's cut-off. These two issues need to be clarified before answering this question. This analysis can take place over the next two years.

Question 4: What are the costs and benefits of having a specific industry-wide trade identifier to enable dealers to track and segregate their non-western hemisphere trades from western hemisphere trades?

While this could provide part of the solution to making the targets, it is not clear that this is not already possible, that there has been broad industry interest in this or that it would be a difficult change had there been a significant need for this. No comment.

Question 5: Would extending the current requirement to match no later than noon on T+1 to a new deadline of 2 p.m. on T+1 help address current ITM processing delays and problems for the next two years?

It appears that this may have an impact on the results of some smaller firms, however, it would also generate costs – likely costs for throw-away development for only two years. It would be helpful for the CSA to clarify what number of firms would be impacted and what the effect on the industry trade entry and matching rate would be. If the need is for a few smaller firms only, then some form of permitted exception would be the better way to proceed.

Other amendments:

(a) Amending the quarterly exception reporting requirement

(i) Proposal to extend the exception reporting threshold percentages and timelines to 90% matching by July 1, 2017: Agreed; while 95% is "better", 90% is at least consistent with the CPSS-IOSCO standard

*(ii) Proposal to focus on the total number of equity trades and total value of debt trades as the threshold percentages***:** Acceptable; this is consistent with focusing on the areas of greatest risk but it is suggested that both number and value of debt and equity trades continue to be required to be completed, with the reporting *measurement* thresholds only being the number of equity trades and value of debt trades.

(b) Amending the pre-DAP/RAP trade execution documentation requirements and related key definition

(i) Proposal to amend the definition of trade-matching party to include a registered adviser only where it is acting for the institutional investor in pre- and post-trade processing of the trade and to exclude individuals and companies that have net investment assets under administration or management of less than $10 million: Agreed; this focuses on the main areas of risk and allows companies to increase to a competitive size

(ii) Proposal to amend the trade-matching documentation requirements so that if a dealer or adviser are unable to persuade their clients or counterparties to enter into trade-matching agreements or receive, they may document efforts to enter into the agreement or receive the statement: Agreed as appropriate.

(c) Proposal to amend provisions governing non-western hemisphere institutional investors to clarify that an institutional investor whose settlement instructions

are usually made in and communicated from a geographical region outside of the western hemisphere be included in these provisions: Agreed generally as appropriate, but suggest that there would be little risk if the western hemisphere were defined according to a firm's platforms (e.g., if certain southern but still western hemisphere countries were managed out of non-western hemisphere locations.

(d) *Amendments to clarify other definitions and concepts and modify Forms 24-101F2 and F5:* Agreed except to the extent there may be no need to adopt the T+1 2:00 p.m. reporting threshold.

(e) **Amendments to the Companion Policy and Other Consequential Amendments:** Agreed as consistent with the above.

Other

- The rule does not appear to contemplate public reporting of the names of firms that currently consistently have the lowest matching rates. As this may affect an investor's ability to maintain quick access to their money following a disaster, the CSA should consider whether this is material information to which investors should have access. A firm could be given notice of a set number of quarters after which their name will be posted if their times do not show regular improvement or they do not have a clear plan and timeline to improve.

- It is generally viewed in the industry that penalties are rarely applied in operational areas. The threat of and then imposition of such penalties in some industry situations has proved effective in getting the attention of senior officers. Provision for this should be considered if the data suggests that some firms clearly have chosen not to improve their matching despite the growing availability of affordable solutions, therefore continuing to receive the "free rider" benefits provided by those firms have improved their systems and procedures.

Yours sincerely,

B. White