

Chapter 5

Rules and Policies

5.1.1 CSA Notice of NI 24-101 Institutional Trade Matching and Settlement, Forms and Companion Policy 24-101CP to NI 24-101 Institutional Trade Matching and Settlement

CANADIAN SECURITIES ADMINISTRATORS

NOTICE OF NATIONAL INSTRUMENT 24-101 INSTITUTIONAL TRADE MATCHING AND SETTLEMENT,

AND

COMPANION POLICY 24-101CP TO NATIONAL INSTRUMENT 24-101 INSTITUTIONAL TRADE MATCHING AND SETTLEMENT

I. INTRODUCTION

National Instrument 24-101 — *Institutional Trade Matching and Settlement* (Instrument) and Companion Policy 24-101CP — to National Instrument 24-101 – *Institutional Trade Matching and Settlement* (Companion Policy) are an initiative of the Canadian Securities Administrators (the CSA or we). The Instrument has been made or is expected to be made by each member of the CSA, and will be implemented as: a rule in each of Alberta, British Columbia, Manitoba, Ontario, New Brunswick, Newfoundland and Labrador, Nova Scotia, and Prince Edward Island; a commission regulation in Saskatchewan; a regulation in each of Québec, Nunavut and the Northwest Territories; and a policy in the Yukon Territory. We intend the Instrument to come into force on April 1, 2007, although certain provisions of the Instrument are not intended to come into force before October 1, 2007.

We also expect the Companion Policy to be adopted in all jurisdictions.

The following jurisdictions have obtained commission approval: Alberta, British Columbia, Manitoba, Ontario, New Brunswick, Nova Scotia and Saskatchewan.

In British Columbia, Ontario, New Brunswick and Saskatchewan, the implementation of the Instrument is subject to ministerial approval.

In Ontario, the Instrument and other required materials were delivered to the Minister of Government Services and Minister responsible for securities regulation on January 10, 2007. The Minister may approve or reject the Instrument or return it for further consideration. If the Minister approves the Instrument or does not take any further action, the Instrument will come into force on April 1, 2007. The Companion Policy will come into force at the same time.

In Québec, the Instrument has been approved for publication by the Autorité des marchés financiers. The Instrument is a regulation made under section 331.1 of *The Securities Act* (Québec) and will have to be approved, with or without amendment, by the Minister of Finance. The Instrument will come into force on the date of its publication in the *Gazette officielle du Québec* or any later date specified in the regulation.

The final text of the Instrument and Companion Policy is being published concurrently with this Notice and can be obtained on the websites of CSA members, including the following:

- www.albertasecurities.com
- www.bcsc.bc.ca
- www.osc.gov.on.ca
- www.lautorite.qc.ca
- www.msc.gov.mb.ca

II. SUBSTANCE AND PURPOSE OF INSTRUMENT AND COMPANION POLICY

The Instrument provides a general framework in provincial securities regulation for ensuring more efficient and timely settlement processing of trades, particularly institutional trades.

Generally, the Instrument:

- requires registered dealers and advisers to establish, maintain and enforce policies and procedures designed to achieve *matching of delivery against payment or receipt against payment* (DAP/RAP) trades as soon as practical after the trade has been executed and in any event no later than the end of the day on which the trade was executed or "T"
- prevents a registered dealer or adviser from opening a DAP/RAP account or executing a DAP/RAP trade for an institutional investor unless each *trade-matching party* has entered into a *trade-matching agreement* with the dealer or adviser or, alternatively, provided a *trade-matching statement* to the dealer or adviser
- requires registered dealers to establish, maintain and enforce policies and procedures designed to facilitate settlement of trades by the standard settlement date
- requires registrants to deliver an exception report on Form 24-101F1 for a given calendar quarter if less than 95 percent of the DAP/RAP trades executed by or for the registrant in the calendar quarter have matched within T
- requires *clearing agencies* and *matching services utilities* to deliver statistical information relating to matching
- provides transitional provisions to gradually phase in the requirement to match DAP/RAP trades on T and the 95 percent threshold for delivering exception reports

The purpose of the Companion Policy is to assist the industry in understanding and applying the Instrument and to explain how we will interpret or apply certain provisions of the Instrument.

III. PRIOR PUBLICATIONS AND BACKGROUND

A. *First publication for comment*

On April 16, 2004, we published for comment the first version of the Instrument (2004 Instrument), a related companion policy, and CSA Discussion Paper 24-401 on *Straight-through Processing* (STP) and Request for Comments (collectively, the 2004 Documents).¹ We received 26 comment letters. A summary of the comments and our responses were published in CSA Notice 24-301 dated February 11, 2005.²

The majority of comments on the 2004 Documents, including some from the buy-side community, supported a CSA rule requiring institutional trade matching on T. However, almost all of the commenters found it unfeasible to require institutional trade matching on T by July 1, 2005. Rather, the consensus was for the rule to gradually phase in the requirement to match institutional trades on T, starting with T+1 and shortening the period to T when the industry is ready. Commenters felt that incremental steps would provide market participants with an opportunity to address a number of concerns about an accelerated confirmation and affirmation process. In CSA Notice 24-301, we agreed with the industry's prevailing view that a rule is required to support institutional trade matching on T with phased-in implementation.

B. *Second publication for comment*

After considering the comments received on the 2004 Documents and consulting with the industry, including the Canadian Capital Markets Association, Investment Dealers Association of Canada and The Canadian Depository for Securities Limited, we made material changes to the 2004 Instrument and related companion policy and published revised materials for comment a second time on March 3, 2006 (March 2006 Documents).³ The March 2006 Documents introduced a number of key changes. We generally refocused the obligations of trade-matching parties under the 2004 Instrument from taking all *necessary steps* to match a trade to adopting appropriate *policies and procedures* to achieve matching. We included the concept of a signed written statement as an alternative to entering into a trade matching compliance agreement. We introduced a new *exception* reporting requirement for registrants and a new requirement for a regulated clearing agency to file quarterly information relating to the trade matching activities of their participants. We also included new transitional phase-in provisions to gradually move to matching on T.

¹ In Ontario, published at (2004) 27 OSCB 3971.

² In Ontario, published at (2005) 28 OSCB 1509.

³ In Ontario, published at (2006) 29 OSCB 1829.

IV. SUMMARY OF WRITTEN COMMENTS ON MARCH 2006 DOCUMENTS

We received 21 comment letters on the March 2006 Documents. We have considered these comments and thank all the commenters. A list of the commenters and a summary of the comments, together with our responses, are contained in Appendix B to this Notice.

V. SUMMARY OF CHANGES TO MARCH 2006 DOCUMENTS

We revised the March 2006 Documents in light of the comments received and after consulting again with industry. All of the revisions were made in response to the comments from stakeholders and to clarify and simplify the requirements of the Instrument. In our view, none of the revisions are material, so the Instrument and Companion Policy are being published with this Notice as a final rule and policy. A summary of the revisions made to the March 2006 Documents is set out in Appendix A to this Notice.

VI. AUTHORITY FOR INSTRUMENT IN ONTARIO

In Ontario, the Instrument is being made under the following provisions of the *Securities Act* (Ontario) (Act):

- Paragraph 11 of subsection 143(1) of the Act authorizes the Commission to make rules *regulating* the listing or trading of publicly traded securities, including requiring reporting of trades and quotations.
- Paragraph 2(i) of subsection 143(1) of the Act authorizes the Commission to make rules in respect of *standards of practice and business conduct of registrants in dealing with their customers and clients and prospective customers and clients*.
- Paragraph 12 of subsection 143(1) of the Act authorizes the Commission to make rules regulating recognized stock exchanges, recognized self-regulatory organizations, recognized quotation and trade reporting systems, and recognized clearing agencies.

VII. ALTERNATIVES TO INSTRUMENT CONSIDERED

In proposing the Instrument, the CSA considered as an alternative not implementing any regulatory requirement, relying instead either on the SROs to impose matching by the end of T or industry practices and standards to evolve towards matching on T. We believe that market participants are seeking assurances that, before they invest in the necessary financial and technological resources to improve institutional trade processing, a requirement to complete matching by the end of T will become a rule subject to compliance and enforcement by the Canadian securities regulatory authorities.

VIII. UNPUBLISHED MATERIALS

In proposing the Instrument, the CSA have not relied on any significant unpublished study, report, or other material.

IX. ANTICIPATED COSTS AND BENEFITS

We refer you to Discussion Paper 24-401, in particular *Part I: The Canadian Securities Clearing and Settlement System and Straight-through Processing — C. Why is STP important to the Canadian capital markets?*

In summary, the CSA are of the view that the Instrument offers several benefits to the Canadian capital markets, including but not limited to the following:

- reduction of processing costs due to development of STP systems;
- reduction of operational risk due to development of STP systems;
- protection of Canadian market liquidity;
- reduction of settlement risk; and
- overall mitigation of systemic risk in, and support of the global competitiveness of, the Canadian capital markets.

The CSA recognize, however, that implementing the Instrument may entail costs, which will be borne by market participants. In the CSA's view, the benefits of the Instrument justify its costs. General securities law rules that require market participants to have policies and procedures in place to complete matching before the end of T and settle trades within the standard industry settlement periods (e.g., T+3) will augment the efficiency and enhance the integrity of capital markets. It promises to reduce both

risk and costs, generally benefit the investor, and improve the global competitiveness of our capital markets. In addition, in assessing the anticipated costs and benefits of the Instrument to the industry, we carefully considered the industry's express desire for CSA regulatory action in this area.

X. REGULATIONS TO BE AMENDED OR REVOKED (ONTARIO)

None.

XI. QUESTIONS

Please refer any of your questions to:

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The texts of the Instrument and Companion Policy follow after Appendices A and B to this Notice.

January 12, 2007

APPENDIX A

General Summary of Changes to National Instrument 24-101 and related Companion Policy

Detailed explanations for many of the changes made to National Instrument 24-101—*Institutional Trade Matching and Settlement* (the Instrument or NI 24-101) and related Companion Policy 24-101CP (the CP) can be found in the Summary of Public Comments and CSA Responses at Appendix B.

The Instrument

Part 1 Definitions and Interpretation

Section 1.1 – “custodian”

- We amended the definition by
 - deleting the words “but does not include a registered dealer”, and
 - including the words “or other custodial arrangement”.

Section 1.1 – “DAP and RAP trade”

- We modified the term to “DAP/RAP trade” and made consequential amendments throughout the Instrument and CP.
- We amended the definition to clarify that a DAP/RAP trade is a trade
 - that is executed for a client trading account that permits settlement on a delivery against payment or receipt against payment basis through the facilities of a clearing agency, and
 - for which settlement is made on behalf of the client by a custodian other than the dealer that executed the trade.

Section 1.1 – “institutional investor”

- We simplified the definition to confirm that an investor that has been granted DAP/RAP trading privileges by a dealer is an institutional investor for the purposes of the Instrument.

Section 1.1 – “matching service utility”

- We amended the definition by deleting paragraph (b).

Section 1.1 – “regulated clearing agency”

- We shortened the term to “clearing agency” and made consequential amendments throughout the Instrument and CP (e.g., section 1.1 definition of “matching service utility”, Part 5 *Reporting Requirements for Regulated Clearing Agencies*, Part 8 *Equivalent Requirements of Self-Regulatory Organizations and Others*, Form 24-101F2 *Regulated Clearing Agency Quarterly Operations Report of Institutional Trade Reporting and Matching*).
- We amended paragraph (c) of the definition to remove the requirement that a clearing agency in jurisdictions other than Ontario and Quebec be “a clearing agency that is subject to regulation under the securities legislation of another jurisdiction in Canada”. The amended paragraph now simply reads: “in every other jurisdiction, an entity that is carrying on business as a clearing agency in the jurisdiction”.

Section 1.1 – “self-regulatory entity”

- We deleted this definition, which incorporated the definition found in National Instrument 21-101 – *Marketplace Operation*. In its place, we are using the abbreviated term “SRO”, which is a defined term found in National Instrument 14-101 – *Definitions*. We made consequential amendments throughout the Instrument and CP (e.g., Part 7 *Trade Settlement*, Part 8 *Equivalent Requirements of Self-Regulatory Organizations and Others*).

Section 1.1 – “settlement day”

- We deleted this definition.

Section 1.1 – “trade-matching agreement” and “trade-matching statement”

- We added these new defined terms, which simplified the drafting of sections 3.2 and 3.4 as a result.

Section 1.1 – “T+1”, “T+2”, “T+3”

- We amended the definition of “T+1” to replace the term “settlement day” with “business day” and we added the defined terms “T+2” and “T+3” because they are frequently used in the Instrument’s Forms and the CP.

Section 1.2(1)

- We amended this interpretive provision that describes the concept of *matching*
 - to refer specifically to “DAP/RAP trades” instead of “trades”, and
 - to clarify that the matching process, if not effected through the facilities of a clearing agency, must include reporting the matched details and settlement instructions to a clearing agency.

Section 1.2(2)

- We amended this interpretive provision to clarify that a reference to a day in the Instrument (e.g., in the definitions of “T+1”, “T+2” and “T+3”) is to a twenty-four hour day from midnight to midnight Eastern time.

Part 2 Application

Section 2.1

- We amended the provision to clarify it and expand the types of transactions that are excluded from the application of the Instrument.

Part 3 Trade Matching Requirements

Sections 3.1 and 3.3

- We amended each of these provisions to:
 - delete the word “reasonable” and insert the words “maintains and enforces” immediately following the word “established”,
 - insert the word “designed” immediately following the words “policies and procedures”,
 - replace the word “practicable” with “practical”, and
 - delete paragraphs (a) and (b) and replace with “the end of T”.
- We added a new subsection to give trade-matching parties an extra day to accomplish the matching of DAP/RAP trades in certain circumstances. The policies and procedures may be adapted to permit matching to occur no later than the end of T+1 for a DAP/RAP trade that results from an order to buy or sell securities received from an institutional investor whose investment decisions are usually made in and communicated from a geographical region outside of the western hemisphere.

Sections 3.2 and 3.4

- We simplified each of these provisions by using the new terms “trade-matching agreement” and “trade-matching statement” defined in section 1.1.
- Related to the above, the definitions of “trade-matching agreement” and “trade-matching statement” in section 1.1 substantially reproduce the text found in previous paragraphs (a) and (b) of sections 3.2 and 3.4, except that minor changes were made to the text to reflect the changes made to sections 3.1 and 3.3 described above.

Part 4 Reporting Requirement for Registrants

Section 4.1

- We amended the provision to:
 - delete the words “a completed” immediately before “Form 24-101F1”, and
 - replace the percentage “98” in paragraphs (a) and (b) with “95”.

Part 5 Reporting Requirement for Regulated Clearing Agencies

- We amended the title.

Section 5.1

- We amended the provision to:
 - delete the words “a completed” immediately before “Form 24-101F2”, and
 - insert the words “through which trades governed by this Instrument are cleared and settled” after “clearing agency”.

Part 6 Requirements for Matching Service Utilities

Section 6.1

- We amended subsection (1) to delete the words “a completed” immediately before “Form 24-101F3”.
- We amended subsection (2) to clarify the provision and remove the reference to “no later than seven days after a change takes place”.

Section 6.2

- We clarified the provision.

Section 6.3

- We replaced the word “practicable” with “practical” in subsection (2) and simplified subsections (1) and (2).

Section 6.4

- We amended subsection (1) to delete the words “a completed” immediately before “Form 24-101F5”.
- We clarified subsection (2).

Section 6.5

- We clarified the provision and deleted clause (c)(ii).

Part 7 Trade Settlement

Section 7.1

- We amended subsection (1) to:
 - delete the word “reasonable” and insert the words “maintains and enforces” immediately following the word “established”,
 - insert the word “designed” immediately following the words “policies and procedures”, and
 - add at the end of the provision the words “or the marketplace on which the trade would be executed” to recognize that, in addition to SROs, certain marketplaces have rules that prescribe standard settlement timeframes (see, e.g., TSX Rule 5-103(1)).

Part 8 Equivalent Requirements of Self-Regulatory Entities and Others

- We amended the title.

Section 8.1

- We amended this section to clarify it and delete reference to “marketplace”.

Section 8.2

- We clarified the section.

Part 10 Effective Dates and Transition

Section 10.1

- We amended this section to revise the date when the Instrument comes into force and delay the implementation of sections 3.2 and 3.4 and Parts 4 and 6, in most cases, by six months after the Instrument comes into force.

Section 10.2

- We amended the transitional provisions to reflect the changes to the timelines and the extension of the transitional phase-in periods, as more fully discussed in the Summary of Public Comments and CSA Responses at Appendix B.
- We added a special transitional provision for Part 6.

Forms 24-101F1, 24-101F2, 24-101F3 and 24-101F5

- We made various drafting changes to generally reflect the revisions made to the Instrument and improve and clarify the forms, including the following notable amendments:
 - We added new Exhibit A—*DAP/RAP trade statistics for the quarter* to Form 24-101F1 to require separately detailed information on the registrant’s equity DAP/DAP trades entered and matched and debt DAP/DAP trades entered and matched for the calendar quarter.
 - We revised Exhibit B (previously Exhibit A) to Form 24-101F1 to provide more guidance on the information we seek on the underlying reasons for failing to achieve the percentage target of matched equity and/or debt DAP/RAP trades.
 - We revised Exhibit C (previously Exhibit B) to Form 24-101F1 to provide more guidance on the information we seek on the steps taken by the registrant to resolve trade matching delays or, if the registrant has insufficient information to determine the percentages for the purposes of section 4.1 of the Instrument, to require the registrant to describe the steps it has taken to ensure it can determine such percentages.
 - We revised Exhibit A to Form 24-101F2 to delete the requirement to complete separate tabular information for client trades settled by non-dealer custodians and client trades settled by dealer custodians and change the format of the tables more in line with the format currently being used and circulated by CDS on a voluntary basis.
 - We revised Exhibit B to Form 24-101F2 to change the title of the Exhibit and to delete the requirement to complete separate tabular information for client trades settled by non-dealer custodians and client trades settled by dealer custodians.
 - We revised Exhibit C (previously Exhibit D) to Form 24-101F5 to change the title of the Exhibit and amend the format of the tables more in line with the format currently being used and circulated by CDS on a voluntary basis.
 - We revised Exhibit D (previously Exhibit E) to Form 24-101F5 to change the title of the Exhibit and amend the format and headings of the table’s columns.

The Companion Policy

- We made various drafting changes to generally reflect the revisions made to the Instrument and improve and clarify the CP, including the following notable changes:

Part 1 Introduction, Purpose and Definitions

Section 1.2

- We added a footnote to remind ICPMs' of their obligations to ensure fairness in the allocation of investment opportunities among the ICPM's clients.

Section 1.3

- We expanded and improved the discussion in the CP on defined terms used in, and the scope of, the Instrument, including:
 - "Custodian" – the CP clarifies that the definition includes both a financial institution (a non-dealer custodian) and a dealer acting as custodian (a dealer custodian) and that they need not necessarily have a direct contractual relationship with an institutional investor to be considered a custodian of portfolio assets of the institutional investor for the purposes of the Instrument if they are acting as sub-custodian to a global custodian or international central securities depository.
 - "Institutional investor" – the CP clarifies that an individual can be an "institutional investor" if the individual has been granted DAP/RAP trading privileges (i.e., he or she has a DAP/RAP account with a dealer).
 - "DAP/RAP trade" – the CP confirms that all DAP/RAP trades, whether settled by a non-dealer custodian or a dealer custodian, are subject to the requirements of Part 3 of the Instrument.
 - "Trade-matching party" – the CP notes that: (i) an institutional investor, whether Canadian or foreign based, is captured by the definition "trade-matching party" for the purposes of the Instrument; (ii) a custodian that settles a trade on behalf of an institutional investor is also a trade-matching party and would be required to enter into a trade-matching agreement or provide a trade-matching statement; and (iii) a foreign global custodian or international central securities depository that holds Canadian portfolio assets through a local Canadian sub-custodian would not normally be considered a trade-matching party if it is not a participant in the clearing agency or otherwise directly involved in settling the trade in Canada.

Part 2 Trade Matching Requirements

Section 2.3

- We expanded and improved the discussion in the CP on the documentation requirements, i.e., the "trade-matching agreement" and "trade-matching statement", including in the following areas:
 - The CP confirms that the parties described in paragraphs (a), (b), (c) and (d) of the definition "trade-matching party" in section 1.1 of the Instrument need not necessarily all be involved in a trade for the requirements of sections 3.2 and 3.4 of the Instrument to apply.
 - The CP provides our expectations and general guidance on the terms and contents of a trade-matching agreement.
 - The CP notes that mass mailings, emails and single uniform trade-matching statements posted on a Website are acceptable ways of providing or making available the statement.
 - The CP provides our expectations and general guidance on the efforts of registrants to monitor and enforce compliance by trade-matching parties of the terms or undertakings in trade-matching agreements and/or trade-matching statements.

Part 3 Information Reporting Requirements

Section 3.1

- We amended this provision in line with changes to the Instrument and to provide guidance on how to complete Form 24-101F1.

Section 3.2

- We added a paragraph to this provision to set out our views on when we would consider a trade-matching party to not have properly designed policies and procedures in place or to be inadequately complying with such policies and procedures.

Section 3.4

- We simplified the discussion on the electronic delivery of the Forms under the Instrument.
- We moved the second element of this provision dealing with the confidentiality of information delivered to the securities regulatory authority under the Instrument into a new section 3.5—*Confidentiality of information*. We have expanded the confidentiality treatment to all forms under the Instrument.

Part 4 Requirements for Matching Service Utilities

Section 4.2

- We amended the factor in paragraph (e) to make it clear that, where more than one matching service utility (MSU) is operating in the Canadian markets, our main objective will be to consider whether adequate interoperability arrangements exist among the MSUs.

Section 4.5(2)

- We added a statement that, depending on the circumstances, we would consider accepting a review performed on an MSU and written report delivered pursuant to similar requirements of a foreign regulator to satisfy the requirements of section 6.5(b) of the Instrument.

Part 6 Equivalent Requirements of Self-Regulatory Entities and Others

- We amended the title.

Section 6.1

- We added this provision to clarify that an SRO may require its members to use, or recommend that they use, a standardized trade-matching agreement or trade-matching statement prepared or approved by the SRO, and may negotiate with other trade-matching parties and industry associations to agree on the form of standardized trade-matching agreement or trade-matching statement to be used by all relevant sectors in the industry (dealers, buy-side managers and custodians).

Part 7 Transition

Section 7.1

- We amended the tabular information under this section to reflect the changes to the Instrument, i.e., delaying the implementation of sections 3.2 and 3.4 and Parts 4 and 6 of the Instrument by at least six months after the Instrument comes into force, changing the timeline from “7:30 p.m. on T” to “end of T”, and extending the transitional phase-in periods, as more fully discussed in the Summary of Public Comments and CSA Responses at Appendix B.

APPENDIX B

**Summary of Public Comments and CSA Responses
on National Instrument 24-101 and related Companion Policy**

Background

On March 3, 2006, the CSA published for comment a revised proposed National Instrument 24-101—*Institutional Trade Matching and Settlement* (the Instrument or NI 24-101) and related Companion Policy 24-101CP (the CP). The comment period expired on May 3, 2006 and we have received submissions from 21 commenters listed below in the next section.

We have considered the comments received and wish to thank all those who took the time to comment. The questions contained in the CSA Notice that was published on March 3, 2006 with the Instrument and CP are reproduced in the table below, together with a summary of the comments we received (left column) and our responses to such comments (right column).

List of Commenters

BMO Nesbitt Burns Inc.
Canadian Capital Markets Association (CCMA)
The Canadian Depository for Securities Limited (CDS)
Capital International Asset Management
CIBC
CIBC Mellon
IDA – Industry Association
IGM Financial Inc.
Investment Dealers Association of Canada (IDA)
ISITC (North America)
ITG Canada Corp.
Merrill Lynch Canada Inc.
Omgeo, LLC
Perimeter Markets Inc.
Phillips, Hager & North Investment Management Ltd.
RBC Dexia Investor Services
RBC Financial Group
Scotiabank
Simon Romano, Stikeman Elliott LLP
TD Bank Financial Group
TSX Group Inc.

Summary of Comments and Responses

Summary of Comments	CSA Response
General comments	
<p>Twelve commenters appeared to support the general objectives of NI 24-101, with one commenter noting in particular that the Instrument will assist in enhancing the global competitiveness and efficiency of Canada's capital markets.</p>	<p>We thank the commenters for their views.</p>
<p>Two commenters requested that alternative trading systems (ATSS) be excluded from the definition of "matching service utility" (MSU) and the provisions of Part 6 governing MSUs because, as registered dealers, ATSS will have to comply with Parts 3 and 7 of NI 24-101.</p> <p>Another commenter suggested that we should clarify whether ATSS are intended to be subject to the requirements applicable to MSUs. The commenter further suggested that it might be useful to understand who exactly the CSA contemplates might be an MSU, especially given the words in section 2.5 of the CP to the effect that "if such facilities or services are made available in Canada" (implying that they are not currently operating).</p>	<p>There should be no confusion over the role of a "marketplace", such as an exchange or ATS, and the role of an MSU. The concept of matching DAP/RAP trades, as set out in section 1.2(1) of NI 24-101, differs from the function of a marketplace within the scheme of National Instrument 21-101—<i>Marketplace Operation</i> (NI 21-101). NI 21-101 governs marketplace operations, where trade orders are brought together or matched for trade-execution purposes and specific rules apply to various types of marketplace trading systems. An MSU performs a post-execution function that is inextricably linked to the clearance and settlement process for DAP/RAP trades. For a more detailed discussion of the role of an MSU, see CSA Discussion Paper 24-401 on Straight-through Processing published on April 16, 2004.</p> <p>We have reconsidered the definition of "matching service utility" in the Instrument. If a marketplace is intending to also perform the role of a MSU, it should be subject to the requirements of Part 6 of NI 24-101, in addition to its requirements under NI 21-101. Consequently, we have deleted paragraph (b) of the definition in section 1.1 of the Instrument. We have also clarified that the concept of <i>matching</i> in section 1.2(1) of the Instrument is limited to DAP/RAP trades for the purposes of the Instrument.</p> <p>We acknowledge that some of the requirements of an MSU in Part 6 of NI 24-101 are similar to requirements applicable to marketplaces in NI 21-101. To the extent that a marketplace is proposing to carry on the business of an MSU, the similar requirements can be combined, where feasible, to avoid duplicative efforts for compliance (e.g., systems capacity requirements). Furthermore, we have revised Form 24-101F3 to allow the provider of the information to include copies of forms previously filed or delivered under NI 21-101 in lieu of completing analogous information requirements in Form 24-101F3.</p> <p>Therefore, marketplaces, including ATSS and exchanges, should not normally be subject to Part 6 of the Instrument if they are not performing the functions of an MSU.</p> <p>We are aware of at least two commercial enterprises that are proposing to offer the services of an MSU in Canada.</p>

Summary of Comments	CSA Response
<p>One commenter questioned whether it was appropriate for ATSS to be caught by paragraph (c) of the definition of “trade-matching party”.</p>	<p>Like other registered dealers, ATSS that are responsible for executing or clearing a DAP/RAP trade should be caught by the definition of “trade-matching party” in section 1.1 of the Instrument.</p>
<p>A commenter questioned whether section 7.1 worked insofar as it purports to apply to dealers other than investment dealers (i.e. applies to mutual fund dealers and limited market dealers who are not subject to Market Regulation Services (MRS) requirements).</p>	<p>The Instrument should generally not apply to a trade made by a mutual fund dealer. See section 2.1 of the Instrument.</p> <p>Subsection 7.1(1) will only apply to a limited market dealer (i.e., a non-SRO member dealer) if the dealer trades on a marketplace that has rules prescribing standard settlement periods.</p>
<p>One commenter found the definition of “settlement day” confusing and inquired whether the words “matching day” should not replace “settlement day” as this definition describes the matching date and not the settlement day.</p>	<p>We deleted this definition because, upon further consideration, we do not believe it is helpful. Instead, for the defined terms “T+1”, “T+2” and “T+3”, we have used the expression <i>business day</i> without defining it.</p>
<p>One commenter stated that an adviser could be seen to breach its fiduciary duty to achieve <i>best execution</i> for its client (an institutional investor) if NI 24-101 would require the adviser to use the services of a less qualified dealer instead of a more qualified dealer that has not established reasonable policies and procedures designed to achieve timely matching.</p>	<p>An adviser would not be breaching its best execution obligations if it is prohibited from using a dealer that has not established policies and procedures designed to achieve timely matching.</p>
<p>One commenter questioned why section 2.1(a) of the CP references ISINs when the common practice for industry is to use CUSIPs. The commenter questioned whether it will be necessary to convert all security identifiers to ISINs as opposed to the existing CUSIPs already in use.</p>	<p>We have modified the CP to refer to the more generic expression “standard numeric identifier”.</p>
<p>One commenter sought clarification on whether the scope of business continuity/disaster recovery planning extends to trade matching. The commenter appears concerned that such (trade-matching) requirements would put an undue burden on all parties to remain compliant regardless of whatever emergency/disaster took place.</p>	<p>We note that we would treat this Instrument in the same way as any other regulatory requirement if a major industry disruption or disaster would adversely impact the markets in Canada and impede market participants’ abilities to generally comply with regulatory requirements. If reasonable in the circumstances, we would consider such an event as a mitigating factor in determining whether the requirements of the Instrument have been complied with.</p>
<p>One commenter sought clarification on the following issues in relation to MSUs:</p> <ul style="list-style-type: none"> • The relevance of section 4.2(e) of the CP, which reads: “the existence of another entity performing the proposed function for the same type of security”. 	<ul style="list-style-type: none"> • Section 4.2 of the CP is similar to section 16.2 of Companion Policy 21-101CP to NI 21-101 in relation to “information processors”. While in rare circumstances we may consider what impact, if any, the existence of several MSUs would have on the overall efficiency of the Canadian capital markets, we do not propose to limit the number of MSUs that would operate in Canada. The main intent of the factor set out in section 4.2(e) is to assess

Summary of Comments	CSA Response
<ul style="list-style-type: none"> • Whether we would reconsider the confidentiality aspects of information provided under Form 24-101F5—Matching Service Utility Quarterly Operations Report of Institutional Trade Reporting and Matching. The commenter would like us to maintain in confidence information under Exhibit D (now Exhibit C) and Exhibit E (now Exhibit D) provided by MSUs, particularly in the latter case where specific subscriber or user data would be made available. • Further clarification on the matching requirements when an MSU is in place would be helpful. At what point are the matching requirements complied with when trade information is submitted by a broker to an MSU and that information is available to trade-matching parties with a “matched status”? • The MSU “independent audit” and process for notifying the securities regulatory authority of material system failures described in Part 4 of the CP are areas that should be re-evaluated to ensure that the level of reporting and due diligence that will be required is commensurate with the regulatory need. 	<p>whether adequate interoperability arrangements exist among the MSUs. We have clarified section 4.2(e) of the CP to better reflect this intent. We will be reviewing all MSU information forms under NI 24-101 to determine whether MSUs carrying on or proposing to carry on business in Canada will be sufficiently interoperable with one another in order to seamlessly communicate trade data elements.</p> <ul style="list-style-type: none"> • We have carefully considered the confidentiality aspects of the Instrument’s forms. The forms delivered by a registrant, clearing agency and MSU under the Instrument will be treated as confidential by us, subject to the applicable provisions of the freedom of information and protection of privacy legislation adopted by each province and territory. We are of the view that the forms contain intimate financial, commercial and technical information and that the interests of the providers of the information in non-disclosure outweigh the desirability of making such information publicly available. However, we may share the information with SROs and may publicly release aggregate industry-wide matching statistics for equity and debt DAP/RAP trading in the Canadian markets. • We note that matching has not been achieved unless the matched information is at the clearing agency. We have modified section 1.2(1) of the Instrument to make this clear. • We believe these MSU requirements are appropriate in the circumstances. For a more detailed discussion of our regulatory approach to MSUs in the Canadian markets, see CSA Discussion Paper 24-401 on Straight-through Processing published on April 16, 2004. The CP has been clarified to confirm that, depending on the circumstances, we would consider accepting a review performed and written report delivered pursuant to similar requirements of a foreign regulator to satisfy the requirements of the independent systems review requirement.
<p>One commenter was of the view that the requirements of Part 8 of NI 24-101 applicable to marketplaces are duplicative and unnecessary given the existing regulatory framework. Another commenter requested that Part 8 of NI 24-101 be revised to exclude ATSS for the following reasons: ATSS are required to be registered as dealers and therefore already subject to Part 3 of the Instrument <i>qua</i> dealer; there is a potential commercial conflict of interest in an ATS intervening in its dealer clients’ buy-side relationships; and ATSS are not an appropriate entity to promote compliance with securities regulation.</p>	<p>Part 8 of NI 24-101 has been revised to exclude “marketplaces”.</p>

Summary of Comments	CSA Response
<p>Question 1 – Should the definition of “institutional investor” be broader or narrower?</p>	
<p>Seven commenters were of the view that the definition of “institutional investor” should be amended or clarified. Some of the commenters made particular recommendations in this regard:</p> <ul style="list-style-type: none"> • Together with clarifying the concept of a DAP/RAP trade, the definition should simply refer to clients to whom DAP/RAP trading privileges have been extended and whose trades clear through a centralized clearing agency. • The definition should apply to COD accounts that settle trades, which clear through a central clearing agency, on a DAP/RAP basis with a “custodian” (the definition of which should be extended to include a registered dealer). • The definition should not include retail clients. • The definition should be consistent with the definition of “institutional customer” found in IDA Policy 4 and harmonized across regulators. • The definition should reflect the categories of institutional clients and trade types that currently generate the greatest trade settlement risk. • The reference to \$10 million should be deleted. • We should ensure that the definition provides appropriate flexibility to reflect existing trade and settlement practices taking into consideration what is most practical operationally and from a compliance monitoring perspective. • We should provide guidance on the applicability of the trade matching requirements to retail brokerage clients where no registered adviser is acting for their trades. • We should consider the settlement requirements of foreign jurisdictions, which may differ from those in Canada, in situations where a custodian that is a CDS participant is not located in Canada. • The growth and increased impact of hedge funds makes it important to include them in the definition. <p>Four commenters were satisfied with the definition of “institutional investor”.</p>	<p>The interplay between the definitions “custodian”, “institutional investor” and “DAP/RAP trade” in the Instrument is not as clear as it could be. In response to many comments on Questions 1, 2 and 3, we have revised the definitions to link these terms closer together and clarify and simplify the Instrument.</p> <ul style="list-style-type: none"> • “Institutional investor” now means an investor that has been granted DAP/RAP trading privileges by a dealer. • The definition of “custodian” has been amended to delete the exclusion of dealers from the definition, so that it will now implicitly include a dealer acting in that capacity. We have also added the words “or other custodial arrangement” at the end of the definition to be consistent with local Ontario rule 14-501—<i>Definitions</i>. • The definition of a “DAP/RAP trade” now means a trade (i) executed for a client trading account that permits settlement on a delivery against payment or receipt against payment basis through the facilities of a clearing agency and (ii) for which settlement is made on behalf of the client by a custodian other than the dealer that executed the trade. <p>In revising these concepts, we have considered the following factors:</p> <ul style="list-style-type: none"> • We have decided against adopting the IDA Policy 4 definition of “institutional customers” into NI 24-101 because this would render the concept more complex and less practical from an operational and compliance monitoring perspective. Among other reasons, the IDA Policy 4 definition of “institutional customer” includes a non-individual with total investment assets under administration or management exceeding \$10 million—a threshold that we decided not to maintain as some commenters urged us to delete this criteria. • While DAP/RAP trades executed on behalf of individuals may not pose, on an aggregate basis, the same degree of settlement risk in our markets as trades executed on behalf of large-scale institutional investors, we are of the view that all DAP/RAP trades should be covered by the matching requirements. These trades are processed in the same manner as other institutional trades. The same institutional processing issues arise, regardless of whether the client is an individual or non-individual. • Currently, CDS is unable to differentiate between individual and non-individual <i>institutional</i> investors (i.e., where assets are held in both cases by a custodian). CDS’ quarterly operating reports (Form 24-101F2) do not require separate data on individual and non-individual institutional trades. We understand that significant

Summary of Comments	CSA Response
	<p>systems and processing changes would have to be made across the industry resulting in increased costs. The costs to the industry as a whole may outweigh the benefits of carving out individuals from the definition of “institutional investor” to differentiate between individual and non-individual institutional trades for reporting purposes.</p> <ul style="list-style-type: none"> • It is doubtful that the current inter-play between the defined terms set out in NI 24-101 would adequately capture prime-brokerage arrangements in the definition DAP/RAP trade. We agree with commenters that prime-brokerage arrangements should be included within the scope of the Instrument’s trade-matching requirements. • Commenters suggested that the matching requirements should only cover trades that settle through the clearing agency. The industry practice is that DAP/RAP trades are, by definition, settled through the clearing agency. This was the approach we initially took in the 2004 draft of the Instrument. Consequently, we have clarified that DAP/RAP trades are trades that settle through the facilities of a clearing agency. <p>We also note the following in response to other comments:</p> <ul style="list-style-type: none"> • The CP has been amended to clarify that individuals (i.e., that would otherwise be considered retail investors) with DAP/RAP accounts with a dealer are subject to the trade-matching requirements, even where no registered adviser is acting on their behalf in the trade. • The matching requirements of NI 24-101 apply to DAP/RAP trades that, in the normal course, would settle in Canada at a clearing agency (i.e., CDS) on T+1, T+2 or T+3. As the requirements do not apply to trades settled outside of Canada, settlement requirements of foreign jurisdictions should generally not be an issue. • We have considered a number of scenarios relating to the application of NI 24-101 to cross border transactions. We believe there is a need to distinguish institutional investors that can reasonably comply with the Instrument’s same-day matching deadlines from those that cannot because of different international time zones. As a practical matter, foreign institutional investors trading in the Canadian markets that are located in time zones outside of the western hemisphere will likely have difficulty complying with the Instrument’s matching on T requirements. We have included provisions to deal with trade orders originating from institutional investors whose investment decisions are usually made in and communicated from a geographical region outside of the western hemisphere’s time zones. Consequently, where a DAP/RAP trade results from an order to buy or sell securities in the Canadian capital markets received from such institutional investors, the matching deadline will be end-of-day on T+1 instead of end-of-day on T.

Summary of Comments	CSA Response
	<ul style="list-style-type: none"> • Both domestic and foreign institutional investors are captured by the definition “trade-matching party”. As such, they would be required to enter into a trade-matching agreement or provide a trade-matching statement pursuant to sections 3.2 and 3.4 of the Instrument. • We have indicated in the CP that a foreign global custodian or international central securities depository that holds Canadian portfolio assets through a local Canadian sub-custodian would not normally be considered a trade-matching party if it is not a participant in the clearing agency or directly involved in settling the trade in Canada.
<p>Question 2 – Does the definition of “trade-matching party” capture all the relevant entities involved in the institutional trade matching process?</p>	
<p>Ten commenters thought that the definition of “trade-matching party” appropriately captured all the relevant entities involved in the institutional trade matching process. However, some commenters made particular recommendations:</p> <ul style="list-style-type: none"> • The definition of “custodian” in section 1.1 of NI 24-101 should include a registered dealer or subsection (d) in the definition of “trade-matching party” should be expanded to capture dealers that act as custodians. • The definition should clearly state that prime brokerage accounts are captured by the definition. 	<p>See our responses under Question 1 above. Among others, the definition of “custodian” will be amended to delete the exclusion of dealers from the definition, so that a custodian will now implicitly include a dealer acting in that capacity. Also a DAP/RAP trade will mean a trade (i) executed for a client trading account that permits settlement on a delivery against payment or receipt against payment basis through the facilities of a clearing agency and (ii) for which settlement is made on behalf of the client by a custodian other than the dealer that executed the trade.</p>
<p>One commenter stated that, in its role as a prime broker, it foresees problems in its ability to match trades in a timely manner since its actions will largely be dependent on the timelines of institutional investors to report trades to their custodians. The commenter also noted that the introduction of NI 24-101 may result in significant technology requirements for its prime brokerage clients in order to facilitate the timely matching of trades.</p>	<p>Regardless of whether an institutional investor uses a non-dealer custodian or a dealer custodian (e.g., prime broker) to hold its investment assets, we expect such institutional investor to establish, maintain and enforce policies and procedures designed to match trades in a timely manner. As a policy matter, it would be inappropriate to make a distinction between institutional investors that use non-dealer custodians and those that use dealer custodians to hold their investment assets. We acknowledge that NI 24-101 may require some technology upgrades for institutional investors, including prime brokers’ clients. We believe that prime brokers are faced with the same challenges as non-dealer custodians in encouraging their clients to match trades in a timely manner.</p>
<p>Question 3 – The scope of the matching requirements of the Instrument is limited to DAP or RAP trades. Should the requirements be expanded to include other trades executed on behalf of an institutional investor? Should the requirements capture trades executed with or on behalf of an institutional investor settled without the involvement of a custodian?</p>	
<p>A majority of commenters appeared to be of the view that the scope of NI 24-101’s trade matching requirements (i.e., limited to DAP/RAP trades) is appropriate and should not be expanded.</p>	<p>The scope of Part 3 of NI 24-101 is limited to DAP/RAP trades. The definition of a DAP/RAP trade has been revised, as discussed above under Question 1.</p>

Summary of Comments	CSA Response
<p>One commenter recommended that the scope be amended to eliminate any transactions for a retail client dealing on a DAP/RAP basis with another firm who would act as the custodian of the retail client's investment assets.</p>	<p>See our responses above under Question 1 in relation to individuals (i.e., retail investors) that have DAP/RAP accounts with a dealer.</p>
<p>One commenter requested that the CSA confirm whether new issues, account transfers, borrow/lend and repo transactions, and money market trades with less than a T+3 settlement date are excluded from the scope of NI 24-101. Two commenters requested that money market securities be excluded from the scope of NI 24-101. Another commenter thought that "off-market" transactions should be excluded, such as issuer and take-over bids, mergers and plans of arrangement, spin-offs, exercises of options and other convertible securities, stock dividends, etc. A commenter suggested that we clarify section 2.1, so that the matching requirements of the Instrument apply only to T+3 settling trades. A commenter asked whether NI 24-101 applies to other securities, such as:</p> <ul style="list-style-type: none"> • derivatives that are not futures or options cleared through a clearing house • US debt and equity (forms 24-101F2 and 24-101 F5 refer to US debt and equity although NI 24-101 does not apply to securities that settle outside of Canada) • non-prospectus mutual funds, including non-prospectus funds that hold units of another non-prospectus fund 	<p>Section 2.1 of NI 24-101 has been revised to expand the types of transactions that are excluded from the application of the Instrument. NI 24-101 will not apply to the following additional specific types of trades: a trade in a security of an issuer that has not been previously issued or for which a prospectus is required to be sent or delivered to the purchaser under securities legislation; a trade in a security to the issuer of the security; a trade made in connection with a take-over bid, issuer bid, amalgamation, merger, reorganization, arrangement or similar transaction; a trade made in accordance with the terms of conversion, exchange or exercise of a security previously issued by an issuer; a trade that is a securities lending, repurchase, reverse repurchase or similar financing transaction; a trade in an option, futures contract or similar derivative; or a trade in a negotiable promissory note, commercial paper or similar short-term debt obligation that, in the normal course, would settle in Canada on T. Generally, the Instrument is intended to apply to a trade in a security that, in the normal course, would settle in Canada on T+1, T+2 or T+3.</p> <p>We note that Forms NI 24-101 F2 and F5 only required separate data for Canadian and U.S. dollar settled trades. There was no intention to capture U.S. debt and equity securities. Despite that, we have revised the forms to delete the requirement for separate data on Canadian and U.S. dollar settled trades so as to eliminate any confusion.</p>
<p>One commenter stated that the scope of the matching requirements should be changed to all "cash on delivery" (COD) accounts, since COD accounts would encompass all DAP/RAP transactions where clients have a prime broker arrangement. Another commenter believes that, because of the potentially significant operational compliance implications, the scope of the matching requirements should be determined on an account basis rather than a trade basis. Another commenter felt that trade matching for securities settling on a DAP/RAP basis should be extended to include all trades executed on behalf of an institutional investor's account, as segregating only by trade type could prove to be more difficult to administer.</p>	<p>See our responses above under Question 1 in relation to the definition of DAP/RAP trade. The concept is now centred upon a trade executed for a <i>client trading account</i> that permits settlement on a delivery against payment or receipt against payment basis through the facilities of a clearing agency.</p>
<p>One commenter encouraged regulators to consider mandating the use of block settlement for all trades with or on behalf of institutional investors in order to help the industry meet the proposed matching targets.</p>	<p>We do not intend to mandate the practice of so-called <i>block settlement</i>. Whether parties will apply this method of matching depends on a number of factors, including the relationship among the trade-matching parties, commercial practice, and regulatory considerations.</p>

Summary of Comments	CSA Response
<p>Nine commenters were of the view that the requirements of NI 24-101 should capture trades executed with or on behalf of an institutional investor, and settled with or without the involvement of a non-dealer custodian. Specifically, one commenter recommended that NI 24-101 should clearly state that <u>all</u> DAP/RAP trades are captured, regardless of whether settlement is effected by a traditional custodian, a prime broker acting as a custodian, or a broker dealer settling a third-party DAP/RAP trade.</p>	<p>See our responses above under Question 1 in relation to the definitions of custodian, institutional investor and DAP/RAP trade. We have clarified in the CP that all DAP/RAP trades, whether settled by a non-dealer custodian or a dealer custodian, are subject to the requirements of Part 3 of NI 24-101. We note that the definition of DAP/RAP trade would not include a trade for which settlement is made on behalf of a client by the dealer that executed the trade.</p>
<p>Question 4 – Are each of these methods (compliance agreement and signed written statement) equally effective to ensure that the trade-matching parties will match their trades by the end of T? Should trade-matching parties be given a choice of which method to use?</p>	
<p>Four commenters appeared to share the view that both methods (compliance agreement and signed written statement) would be equally effective to ensure that the trade matching parties will match their trades by the end of T.</p>	<p>We have retained these two alternative approaches. The Instrument has been revised to include the defined terms “trade-matching agreement” and “trade-matching statement” so as to simplify the drafting of sections 3.2 and 3.4 of the Instrument and clearly <i>label</i> and better describe the nature of the documentation that all trade-matching parties must have in place when opening or trading in DAP/RAP accounts.</p>
<p>Ten commenters were of the view that a standard form of compliance agreement or statement for all trade matching parties would be required for the following reasons:</p> <ul style="list-style-type: none"> • To ensure that every trade-matching party would clearly understand what would be expected of it regarding matching • To ensure consistent and uniform application of policies and procedures • To alleviate the complex process of negotiating and executing the required documentation • To reduce the compliance burden for dealers and oversight burden for regulators <p>A commenter suggested that brokers and custodians be allowed to sign a single blanket statement (accepted by the CSA) that is posted on their external website. Another commenter would welcome an industry initiative (e.g., the CCMA, together with the IDA) to draft a standard agreement and statement. One commenter recommended that the CSA incorporate a standard form of agreement and statement into the Instrument that would be consistent for all parties.</p>	<p>We do not propose to prescribe the form of trade-matching agreement or trade-matching statement. Trade-matching parties should be free to tailor their documentation according to their particular commercial relationships and practices. Nevertheless, Part 2 of the CP has been revised to provide guidance on the types of matters that could be included by the trade-matching parties in their trade-matching agreement. Also, we have noted in the CP that mass mailings, emails and single uniform trade-matching statements posted on a Website are acceptable ways of providing or making available the statement. We acknowledge and encourage the industry’s efforts to prepare standardized documentation.</p>
<p>Seven commenters proposed that the CSA implement a staggered, phased-in approach for the compliance agreement and signed written statement, to enable more time for the documents to be properly executed and</p>	<p>Part 10 of NI 24-101 has been revised to provide for a six month phase-in period for preparing and executing the trade-matching documentation for all DAP/RAP accounts. As such, the requirements of sections 3.2 and 3.4 of the</p>

Summary of Comments	CSA Response
<p>finalized. A few commenters stated that the CSA allow trade-matching parties until January 1, 2007 (a six month period) to obtain signed versions of either forms of trade-matching documentation or, ideally, a commitment to abide by an industry standard, to reduce both the compliance burden for firms and the resources required by regulators to review agreements/statements.</p>	<p>Instrument will not apply until October 1, 2007.</p>
<p>Four commenters noted that it was not clear what the consequences or the remedies of non-compliance with the documentation would be, and to whom they would be applied. For example, it is unclear from the Instrument how the CSA expects registered dealers to “use reasonable efforts to monitor compliance with and enforce the terms of the compliance agreement” when the custodial relationship is between the client and the custodian and not between the dealer and custodian. Who would be considered not in compliance? Who is responsible for remedial action? What would be the CSA’s expectations of the steps to take in a situation where, for example, trades between a given broker, client and custodian are matched on T in the aggregate only 95% of the time—in such case, each party may claim that they achieved the CSA requirement and that the fault lies with the other two parties. It was noted that the effectiveness of any compliance agreement or written statement is dependent on the ability to track compliance and enforce penalties for non-compliance.</p>	<p>The CP has been revised and clarified on these issues (see s. 2.3(4) of the CP). Registered dealers and advisors should use reasonable efforts to monitor compliance with the terms or undertakings set out in the trade-matching agreements or trade-matching statements. Dealers and advisors should report details of non-compliance in their Form 24-101F1 exception reports. This could include identifying to the regulators those trade-matching parties that are consistently non-compliant either because they do not have adequate policies and procedures in place or because they are not consistently complying with them. Dealers and advisors should also take active steps to address problems if the policies and procedures of other trade-matching parties appear to be inadequate and are causing delays in the matching process. Such steps might include imposing monetary incentives (e.g. penalty fees) or requesting a third party review or assessment of the party’s policies and procedures. This approach could enhance cooperation among the trade-matching parties leading to the identification of the root causes of failures to match trades on time.</p>
<p>One commenter stated it was unnecessary and ineffective for custodians to enter into a compliance agreement or provide a signed written statement since custodians already have policies and procedures in place to ensure the timely settlement and processing of trade instructions. Another commenter, however, recommended that, to the extent custodians are regulated, they should be “policing” their client relationships in the same manner as that proposed for SRO member firms. This could be achieved by developing a separate client/settlement agent trade matching compliance agreement/signed written statement or amending the NI 24-101 compliance agreement/signed written statement requirements to clearly include custodians.</p>	<p>As custodians are included as “trade-matching parties”, they are required to enter into trade-matching agreements or provide trade-matching statements to registrants before a registrant can trade on behalf of an institutional investor. It is necessary and effective for custodians to enter into an agreement or provide a statement in accordance with the requirements of sections 3.2 and 3.4 of the Instrument because custodians are integral to the institutional trade matching process. Even if they are already recognized to have effective policies and procedures in place to ensure the timely processing of trade instructions and settlement, their active involvement as a party to a trade-matching agreement or in providing a trade-matching statement would, in our view, positively influence the behaviour of other trade-matching parties involved in the process.</p>
<p>One commenter noted that imposing these requirements on Canadian broker/dealers could disadvantage them when compared to foreign dealers, considering that a foreign institution can now become a CDS participant.</p>	<p>A foreign dealer or financial institution that becomes a participant in CDS to settle trades in CDS would be considered to be settling a trade in Canada, and would be caught by the requirements of Part 3 of the Instrument if the trade is a DAP/RAP trade.</p>
<p>One commenter would like the IDA to administer a list of broker/dealers who have established policies and procedures. This list would facilitate the IDA to enter into</p>	<p>We support industry efforts to standardize trade-matching documentation required under the Instrument. We would consider any SRO proposal to administer the documentation</p>

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<p>one written standard agreement with each adviser. Another commenter suggested two approaches for efficiencies in executing the necessary trade-matching documentation: (1) the development of standard industry compliance agreement, or (2) the use of a bare trustee approach whereby the IDA would execute the standard industry compliance agreement on behalf of all of its members with each institutional client.</p>	<p>and/or a list of SRO member firms that have established policies and procedures.</p>
<p>Concerned about the regulatory burden, another commenter suggested alternatives to the trade-matching agreement, such as a statement as to policies and procedures, a clause in a new account agreement, or an addendum to an existing account agreement.</p>	<p>We think the Instrument and CP are sufficiently flexible to allow trade-matching parties to use the alternatives described by the commenter, i.e., a statement as to policies and procedures; a clause in a new account agreement; or an addendum to an existing account agreement.</p>
<p>A commenter would like to certify at the firm level and not at the account level, since certification at the account level would produce unnecessary paper and costs for both the investment manager and broker/dealer.</p>	<p>The CP confirms that a single trade-matching statement is sufficient for the general and sub-accounts of the institutional customer. Similarly, a single trade-matching agreement is sufficient for the general and all sub-accounts of the institutional customer.</p>
<p>One commenter noted that their actual role as an investment manager appears to differ from the role of an investment manager described in the Instrument. In their experience, it is their responsibility as an investment manager to report to the client's custodian the details of the trade, but they do not confirm the details of the trade.</p>	<p>The role of an investment manager is critical to the trade matching process. It decides what securities to buy or sell and how the assets should be allocated among the underlying client accounts. Reporting to the custodian the details and settlement instructions of the trade is a key component of the trade matching process. A trade is matched only when all the trade-matching parties have completed their respective steps, which includes the timely involvement of the investment manager.</p>
<p>Question 5 – Will exception reports enable practical compliance monitoring and assessment of the trade matching requirements?</p>	
<p>Fourteen commenters made a number of recommendations to enable practical compliance monitoring and assessment of the trade matching requirements, including the following:</p> <ul style="list-style-type: none"> • Exception reporting requirements should be clearly defined in NI 24-101 so that registrants provide reporting that is identical in content as well as format. • There should be a standard format for Exhibit A [now Exhibit B] to Form 24-101F1 to ensure the same level of detail for all parties. • Exception reporting for broker/dealers should be triggered by the failure to <i>enter</i> trades within timelines and not by <i>matching</i> failures. • A more practical approach would be to receive reporting from a clearing agency and from the MSU for the trades that they match and that are, in turn, settled by a clearing 	<p>Registrants should be maintaining a record of their DAP/RAP trade matching performance, regardless of whether a regulation requires them to report on such performance in certain circumstances. A Form 24-101F1 exception report may help to maintain such a record, and in any case need only be completed if the registrant is unable to achieve matching of a certain percentage of its trades by the timeline. We are of the view that the exception reports are critically important in identifying the reasons for a trade-matching party's failure to meet the prescribed timelines. The matching of trade details must occur as soon as possible so that errors and discrepancies in the trades can be discovered early in the clearing and settlement process.</p> <p>We respond to a number of the specific comments as follows:</p> <ul style="list-style-type: none"> • We have revised Form 24-101F1 and the CP to clarify the type of information we would require for the registrant exception reports. Dealers and advisers will need to

Summary of Comments	CSA Response
<p>agency; and to focus oversight efforts on those individual firms with the highest values and/or volumes of trades that do not meet the deadlines.</p> <ul style="list-style-type: none"> • CDS reporting should be more robust, as the experience to-date shows that additional development will be required (e.g. the ability to report trade matching statistics on a participant level); and CDS should provide minimum monthly reports to the registrant. • If exception reporting is adopted, a clearing agency should provide, at a minimum, monthly reports to registrants in order to ensure prompt attention to any issues; and to allow sufficient lead time to develop and implement any enhancements or address specific issues prior to the completion of the quarter. • NI 24-101 should state how the CSA and SROs will deal with non-compliant broker/dealers. • Field audits of registrants' exception reports and management of documentation requirements will have to be conducted. • The exception reporting requirements should be reassessed in order to ensure that they are not too onerous. • A more effective approach to determining who is unable to comply is to require immediate reporting of the details behind a failure to match. • The cost of meeting the upfront technological requirements and the ongoing monitoring requirements could be another barrier to entry into the market and could be passed onto clients in the form of fees. • Publishing the CDS performance reports on an industry-wide basis may be sufficient to encourage compliance of the Instrument; however, if such reports are found to be insufficient, then formal exception reporting could be implemented. 	<p>provide aggregate quantitative information on their equity and debt DAP/RAP trades. Requiring this information will not add to the regulatory burden because a registrant would have had to track this information in any case to determine whether it had achieved the percentage threshold to avoid filing the exception report. In addition, when completing Form 24-101F1, a registrant will provide qualitative information on the circumstances or underlying causes that resulted in or contributed to the failure to match the relevant percentage of equity and/or debt DAP/RAP trades within the time prescribed by Part 3 of the Instrument. Registrants will need to describe the specific steps they are taking to resolve delays in trade reporting and matching.</p> <ul style="list-style-type: none"> • By themselves, statistics on failures to enter trades on a timely basis would not be sufficient to understand the underlying reasons why trades have not matched on a timely basis. • In contrast to Form 24-101F1, data received from a clearing agency or an MSU under Forms 24-101F2 and F5 will not fully explain why a particular trade matching party has failed to match within the prescribed timelines. Only Form 24-101F1 exception reports will provide such information. • We understand that CDS will undertake the necessary development work to comply with the requirements of Form 24-101F2 and assist registrants to comply with Form 24-101F1 exception reporting. Those registrants that are not direct CDS participants will need to rely on registrants that are direct CDS participants to comply with Form 24-101F1 exception reporting. CDS currently provides a monthly report to all its participants, which identifies the participant's entry and confirmation rates. • Registrants should provide information that is relevant to their circumstances. For example, where necessary dealers should provide information demonstrating problems with notices of execution (NOEs) or reporting of trade details to CDS (e.g., time of entering trade details, aggregate number and value of trades entered, etc.). They should confirm what steps they have taken to inform and encourage their clients to comply with the requirements or undertakings of the trade-matching agreement and/or trade-matching statement. They should confirm what problems, if any, they have encountered with their clients or service providers. They should identify the trade-matching party or service provider that seems to be consistently not meeting matching deadlines, or appears not to have established policies and procedures designed to achieve matching. Similarly, advisers should provide information demonstrating problems with allocations, confirm what problems, if any, they have encountered with their service providers or custodians, and identify the trade-matching party or service provider that seems to be consistently not meeting matching deadlines or appears not to have established CSA policies and procedures designed

Summary of Comments	CSA Response
	<p>to achieve matching.</p> <ul style="list-style-type: none"> • Immediate reporting to the regulators of failures to match on a timely basis may be far more time consuming and onerous than periodic reporting. Periodic reporting may identify a number of reasons, and offer a full explanation, as to why a trade-matching party was unable to meet the prescribed timelines. • Trade-matching parties may have to invest in new technology. However, this investment will, over time, result in improved efficiencies and cost-savings, including less reliance on manual processing.
<p>One commenter was of the view that exception reporting by ICPMs may be duplicative and unnecessary. The reporting requirement of broker/dealers would be sufficient as they are primarily responsible for executing trade orders. Another commenter noted that they are concerned that ICPMs may be included as “registrants” required to file Form 24-101F1 exception reports. They question why advisers are included since (i) not all buy-side firms will be required to provide exception reports and (ii) as the buy-side firms are not affirming parties with CDS, there is no way for them to independently know that trades have matched successfully.</p>	<p>Exception reporting by advisers would not be duplicative or an unnecessary burden on the industry. Registered advisers are a key part of the buy-side community and are integral to ensuring that institutional trade matching is completed on a timely basis. Problems encountered by an adviser, particularly problems that are within the control or knowledge of an adviser, should be reported by the adviser.</p>
<p>One commenter felt it was important to ensure that all market participants be held to consistent standards and penalties regardless of the regulatory body that is assigned to monitor their trading activities.</p>	<p>The CSA would expect all trade-matching parties to have policies and procedures that are consistent. We plan to work with SROs and other regulators to ensure that standards and penalties are as consistent as possible.</p>
<p>Two commenters questioned how the CSA will be able to determine which trade-matching party is responsible for late matching in circumstances where there are conflicting claims based on different opinions regarding why a trade has not been promptly matched. One commenter noted that section 1.2(3) of the CP identifies four aspects of trade matching, only two of which are in the control of the dealer: notification of execution and reporting of trade details. The other two aspects are in the control of the buy-side client and their custodians: allocations and custodian verification. This places the dealer in a position of sub-contracted enforcers of securities regulation. In the event a dealer fails to meet its trade-matching thresholds solely because of the actions of its client or client’s custodian, the implied result is that the dealer will have to enforce contractual remedies against the client, i.e. suspend or terminate the relationship. Another commenter recommended more of an industry solution in instances where institutional investors do not comply, rather than holding dealers accountable for failing to adequately police the trade-reporting timelines of their institutional clients.</p>	<p>We plan to review completed Forms 24-101F1 on an ongoing basis to monitor and assess compliance by registrants and others with the Instrument’s matching requirements. Various regulatory tools are available to us when assessing compliance by registrants, including routine field audits and compliance sweeps. We recognize that a dealer may be required to deliver an exception report because of the actions of its institutional client or such client’s custodian.</p> <p>Our expectations of the dealer’s role in these circumstances are set out in the CP, particularly s. 2.3(4). See our response under Question 4.</p>

Summary of Comments	CSA Response
<p>Question 6 – Is it necessary to require custodians to do exception reporting in order to properly monitor compliance with this Instrument?</p>	
<p>Six commenters were of the view that it is necessary to require custodians to complete exception reports to properly monitor industry-wide compliance with NI 24-101. Reasons cited include:</p> <ul style="list-style-type: none"> • From a fairness standpoint, the dealer should not be held exclusively responsible for policing compliance with the matching requirements, particularly the compliance with regulated custodians. • To act as an additional “check and balance” on the monitoring and assessment process. • The possibility of providing an “independent review” and further insight into the reasons for failing to meet matching percentages. • Outsourcing to a custodian may be a feasible alternative for smaller registered advisers who may not have sufficient resources or capacity to monitor exception reporting. • Custodians, as an essential trade-matching party, should be subject to the same reporting standards as dealers. <p>One commenter recommended that the CSA discuss the reporting requirements with the custodian community prior to defining reporting requirements in order to achieve useful information and avoid unnecessary costs that would likely be passed onto customers.</p> <p>Five commenters, however, said that it is unnecessary to require custodians to complete exception reports to properly monitor industry-wide compliance with NI 24-101. Reasons cited include:</p> <ul style="list-style-type: none"> • Monitoring the extent to which trade confirmation rates for dealer participants are meeting the established thresholds can best be done through direct reporting by CDS to the regulator. • Given the reporting currently available through CDS and the registrants’ obligations to report, any exception reporting by custodians would be duplicative. • Information provided by the clearing agency and the exception reporting provided by the broker/dealer should be sufficient to meet the exception reporting requirements. <p>One commenter stated that custodians should not be required to do exception reporting, except when directed or requested to do so by their client or counterparty broker/dealer.</p>	<p>We acknowledge the comments received. However, imposing a direct regulatory reporting requirement on all custodians is not possible at this time. We are of the view that exception reporting by registrants, combined with the reporting by clearing agencies and MSUs, will be sufficient for the time being. The reporting requirements strike a proper balance and will provide useful information and avoid unnecessary costs.</p>

Summary of Comments	CSA Response
<p>Question 7 – Is it feasible for trade-matching parties to achieve a 7:30 p.m. on T matching rate of 98 percent by July 1, 2008, even without the use of a matching service utility in the Canadian capital markets?</p>	
<p>Twelve commenters were of the view that it is not feasible for trade-matching parties to achieve a 7:30 p.m. on T matching rate of 98% by July 1, 2008, regardless of whether an MSU is operating in the Canadian marketplace. Reasons cited include:</p> <ul style="list-style-type: none"> • The proposed target date is too aggressive; it does not allow enough time to complete all stages of the trade-matching process. • The buy-side will not be able to make the necessary investment and changes by the specified dates. • There will be push-back from smaller broker/dealers because substantial investment in technology will be required to change batch oriented systems. • During the same timeframe, the industry may be asked to absorb another large financial investment due to regulatory change to meet the TREATS requirements. • Significant changes to both behaviour of individual participants and level of automation are required before the industry will be able to achieve the target date. • There is a lack of facilities for the repair and resending of unmatched trades with the timeframes proposed. • There are no universally accepted set of trade match criteria that would require sign-off between the various parties. • The proposed targets are not achievable unless the industry immediately adopts the CCMA's best practices and standards. • Some custodians may experience difficulties to match on T for those trades that are executed by registrants on behalf of foreign institutional investors, due to international time zone differences. 	<p>In response to the comments received to Questions 7 and 8, NI 24-101 has been revised as follows:</p> <ul style="list-style-type: none"> • Matching requirements will apply uniformly to all DAP/RAP trades, without regard to time of execution. • The matching deadline is now end of T (11:59 p.m. on T), not 7:30 p.m. • A more gradual phase-in period has been incorporated for trade matching. • A six month phase-in period has been incorporated for allowing time to prepare and execute the required trade-matching agreements and/or trade-matching statements. After the phase-in periods, the Instrument will provide that trade-matching parties must match 95% of their DAP/RAP trades by 11:59 p.m. on T as of January 1, 2010; as compared to the previous proposal, which provided for a 98% threshold by 7:30 p.m. on T as of July 1, 2008. • For a DAP/RAP trade that results from an order to buy or sell securities received from an institutional investor whose investment decisions are usually made in and communicated from a geographical region outside of the western hemisphere, the Instrument provides for a matching deadline of 11:59 p.m. on T+1. • Led by the CCMA, the industry is working towards an accepted common set of trade-match criteria for all trade-matching parties. <p>We are of the view that the revised time frames and phase-in periods discussed above will allow trade-matching parties to achieve the necessary systems and process changes required in due time. Despite more gradual transition periods, an ultimate matching deadline of end of T (11:59 p.m. on T) instead of 7:30 p.m. on T, and a final exception reporting threshold of 95 percent instead of 98 percent, registrants and other trade-matching parties will need to initiate some back-office processing changes and invest to upgrade their back-office technology.</p> <p>In the CSA's view, the benefits of the Instrument justify its costs. General securities law rules that require market participants to have policies and procedures in place to complete matching before the end of T and settle trades within the standard industry settlement periods (e.g., T+3) will augment the efficiency and enhance the integrity of capital markets. It promises to reduce both risk and costs, generally benefit the investor, and improve the global competitiveness of our capital markets. In addition, in assessing the anticipated costs and benefits of the Instrument to the industry, we carefully considered the</p>

Summary of Comments	CSA Response
	industry's express desire for CSA regulatory action in this area.
<p>A number of commenters were of the view that the 7:30 p.m. on trade date cut-off time should be changed to 11:59 p.m. on trade date. Reasons cited include:</p> <ul style="list-style-type: none"> • The 11:59 p.m. cut-off would be more closely aligned with the U.S.'s cut-off time of 1:30 a.m. on T+1. • Canada's trade-matching performance comparisons would be more closely aligned with U.S. calculations. • Some of the end-of-day trade entry congestions caused by tighter deadlines would be relieved. • Existing trade transmission schedules imposed by major applications or systems of dealer service providers (such as ADP) would be better accommodated, especially because the processing of trade details submitted by such service providers to CDS normally occurs after 7:30 p.m. on T and before the opening of business on T+1. • It would remove any disadvantage to Western Canadian participants in the current timeframes. 	<p>As discussed above, we are no longer making a distinction in the Instrument between trades that are executed on or before 4:30 p.m. and trades that are executed after 4:30 p.m. Making such a distinction was unnecessarily complex and less relevant now that we are adopting an 11:59 p.m. matching deadline. Moreover, CDS is unable to know when a trade was executed by the counterparties. We believe that the matching requirements should be simplified to apply uniformly to any DAP/RAP trade executed on T, without regard to time of execution.</p>
<p>Five stakeholders questioned the feasibility of moving to matching on T from T+1, regardless of the time on T. One commenter stated that only a study of the current state of industry's trade-matching preparedness, and an assessment of remaining steps to be taken, can answer this question. Two commenters questioned the benefits of moving from matching on T+1 to matching on T in an existing T+3 settlement environment. It was suggested that there exists no compelling reason to move to matching on T because the likelihood of a global move to a T+1 trade settlement cycle is small in the near to mid term. One of the commenters further suggested that the potential added costs may not be supportable, in terms of expense or risk reduction. The other commenter also recommended that the Instrument be amended to require matching by 12:00 p.m. (noon) on T+1, as this timeline is more realistic and achievable.</p> <p>Another commenter stated that a preferable approach might be to implement the initial transitional targets on T+1, and then assess the industry situation before introducing further targets. A commenter noted that the regulators should determine the implications of custodians affirming after 7:30 p.m. [and before] midnight on T before mandating the move to matching on T.</p>	<p>We respond to these comments as follows.</p> <p>We believe that matching on T should continue to be the centrepiece of the Instrument. Same-day matching is critical to achieving STP and an important element of international best practices and standards. Both the Committee on Payment and Settlement Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO) recommend that the confirmation of institutional trades occur as soon as possible after trade execution, preferably on T, but no later than T+1.⁴ Similarly, the Group of Thirty (G-30) recommends that market participants should collectively develop and use compatible and industry-accepted technical and market-practice standards for the automated confirmation and agreement of institutional trade details on the day of the trade.⁵ Agreement of trade details should occur as soon as possible so that errors and discrepancies can be discovered early in the settlement process. Early detection will help to avoid errors in recording trades, which could result in inaccurate books and records, increased and mismanaged market risk and credit risk, and increased costs.</p> <p>The CCMA, which has led the straight-through processing (STP) drive in Canada, strongly supports matching on T. It</p>

⁴ See *Recommendations for securities settlement systems – Report of the Committee on Payment and Settlement Systems and Technical Committee of the International Organization of Securities Commissions (Joint Task Force) on securities settlement systems*, dated November 2001, at Recommendation 2: Trade Confirmation.

⁵ See *Global Clearing and Settlement: A Plan of Action*, report of the G-30 dated January 23, 2003, at Recommendation 5: Automate and Standardize Institutional Trade Matching.

Summary of Comments	CSA Response
<p>One commenter noted that any move to timelines on T would be highly dependent on such things as further adoption of industry-wide communication standards and protocols, the implementation of real time trade technology, and changes to fund accounting routines (e.g., some participants delay sending trades to broker/dealers as they do not post them to their accounting systems until T+1).</p> <p>One commenter thought that moving the matching deadline from noon on T+1 to 7:30 p.m. or midnight on T (or even to 1:30 a.m. on T+1, as in the U.S.) will be more costly. Custodian staff and/or systems will have to be available to affirm trades following the trade-entry cut-off time, unless the custodian confirmation process is automated or MSUs are used.</p>	<p>notes that research suggests that Canada lags behind the U.S. in achieving timely institutional trade matching.⁶ Institutional trade matching on T will allow the Canadian market to move together with the U.S. market on key STP initiatives and, when the time comes, to T+1 settlement. Without moving to T matching, Canada risks being vulnerable to significant ongoing global competitive forces and may continue to lag the U.S. in the institutional trade processing area.</p> <p>A more efficient matching process may offer the following value to all industry sectors:</p> <ul style="list-style-type: none"> • Registered advisers and other buy-side managers may be able to focus on business growth and returns with timely and accurate data that supports the entire investment process. • Registered dealers may benefit from reduced operating costs (e.g., fewer errors, reduced re-keying) and enhanced client services. • Custodians may experience a reduced need for trade intervention and be able to focus on providing clients with more value added services. • Overall institutional trade matching on T may drive other STP initiatives, reduce processing costs and operational risks, reduce settlement risk, protect the liquidity of our markets, and enhance the global competitiveness of Canada's capital markets. <p>In response to the specific comment on the impact that same-day matching may have on fund accounting practices, we are of the view that institutional trade-matching processes and fund accounting practices are two issues that, although linked, must be treated separately. A trade executed by a dealer that results in an NOE to a buy-side manager will trigger requirements to complete other trade-matching steps as soon as practical under NI 24-101. The trade and NOE may also trigger a requirement for an investment fund to take into account that purchase or sale of securities in calculating the daily net asset value of the fund, but that requirement is independent of the requirements under NI 24-101.</p>

⁶ See, among other studies, Charles River Associates, *Free Riding, Under-investment and Competition: The Economic Case for Canada to Move to T+1: Executive Summary*, November 10, 2000; Cap Gemini Ernst and Young, *STP/T+1 Value Proposition Survey*, October 15, 2002; and Capital Markets Company (Capco), *Assessment of Canada's STP/T+1 Readiness and a Comparison of Canada's vs. United States' T+1 Readiness—STP/T+1 Readiness Assessment Report for Canada*, July 12, 2004. These studies are available on the CCMA website at www.ccma-acmc.ca.

Summary of Comments	CSA Response
<p>Question 8 – Are the transitional percentages outlined in Part 10 of the Instrument practical? Please provide reasons for your answer.</p>	
<p>Eleven commenters are of the view that the percentages outlined in Part 10 of NI 24-101 are not practical. Reasons cited include:</p> <ul style="list-style-type: none"> • Although the first transition to 70% matching at noon on T+1 is reasonable, the other transitional percentages are significantly different and would be difficult to achieve. • It will be very difficult to accomplish significant changes by implementing internal processes and system changes in six month incremental stages. • Incremental improvements in institutional trade matching will first require broker/dealers to adopt (virtual) real-time trade entry processes as opposed to batch, which will take at least 6 months to accomplish. • Use of weighted-average pricing, best-fill order management or other trading techniques prevents intra-day trade detail communication in many cases. • Any trade entry that occurs after the 7:30 p.m. cut-off is automatically recorded on the next day (T+1 for example). 	<p>Please see our responses to Question 7 above. We believe the revised time frames and phase-in periods will address these concerns.</p>
<p>One commenter suggested that the threshold to achieving matching on T should be set to 90% as opposed to 98%; the latter threshold is too high and poses an unfair burden on the industry given the relatively concentrated nature of institutional trading in the Canadian capital markets and the economic value of institutional trade matching in absence of the move to T+1 settlement.</p> <p>Another commenter recommended that we consider specifying a 98 per cent entry-reporting rate for dealer trade entry to the regulated clearing agency, and a separate custodian trade affirmation rate that recognizes that, for the most part, the current process is sequential. Alternatively, the CSA should consider lowering the matching rate to 95%. Another commenter noted that, while a 98 percent matching compliance rate may be feasible, it is not likely achievable without an acceleration in the international move to T+1 settlement.</p>	<p>We have set the final threshold for exception reporting at 95% of DAP/RAP trades matched by end of T. Such threshold will apply commencing January 1, 2010.</p>

CANADIAN SECURITIES ADMINISTRATORS
NATIONAL INSTRUMENT 24-101
INSTITUTIONAL TRADE MATCHING AND SETTLEMENT

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**NATIONAL INSTRUMENT 24-101
INSTITUTIONAL TRADE MATCHING AND SETTLEMENT**

PART 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions —

In this Instrument,

“clearing agency” means,

- (a) in Ontario, a clearing agency recognized by the securities regulatory authority under section 21.2 of the *Securities Act* (Ontario),
- (b) in Quebec, a clearing house for securities authorized by the securities regulatory authority, and
- (c) in every other jurisdiction, an entity that is carrying on business as a clearing agency in the jurisdiction;

“custodian” means a person or company that holds securities for the benefit of another under a custodial agreement or other custodial arrangement;

“DAP/RAP trade” means a trade

- (a) executed for a client trading account that permits settlement on a delivery against payment or receipt against payment basis through the facilities of a clearing agency, and
- (b) for which settlement is made on behalf of the client by a custodian other than the dealer that executed the trade;

“institutional investor” means an investor that has been granted DAP/RAP trading privileges by a dealer;

“marketplace” has the same meaning as in National Instrument 21-101 *Marketplace Operation*;

“matching service utility” means a person or company that provides centralized facilities for matching, but does not include a clearing agency;

“trade-matching agreement” means, for trades executed with or on behalf of an institutional investor, a written agreement entered into among trade-matching parties setting out the roles and responsibilities of the trade-matching parties in matching those trades and including, without limitation, a term by which the trade-matching parties agree to establish, maintain and enforce policies and procedures designed to achieve matching as soon as practical after a trade is executed;

“trade-matching party” means, for a trade executed with or on behalf of an institutional investor,

- (a) a registered adviser acting for the institutional investor in the trade,
- (b) if a registered adviser is not acting for the institutional investor in the trade, the institutional investor,
- (c) a registered dealer executing or clearing the trade, or
- (d) a custodian of the institutional investor settling the trade;

“trade-matching statement” means, for trades executed with or on behalf of an institutional investor, a signed written statement of a trade-matching party confirming that it has established, maintains and enforces policies and procedures designed to achieve matching as soon as practical after a trade is executed;

“T” means the day on which a trade is executed;

“T+1” means the next business day following the day on which a trade is executed;

“T+2” means the second business day following the day on which a trade is executed;

“T+3” means the third business day following the day on which a trade is executed.

1.2 Interpretation — trade matching and Eastern Time —

- (1) In this Instrument, matching is the process by which
- (a) the details and settlement instructions of an executed DAP/RAP trade are reported, verified, confirmed and affirmed or otherwise agreed to among the trade-matching parties, and
 - (b) unless the process is effected through the facilities of a clearing agency, the matched details and settlement instructions are reported to a clearing agency.
- (2) Unless the context otherwise requires, a reference in this Instrument to
- (a) a time is to Eastern Time, and
 - (b) a day is to a twenty-four hour day from midnight to midnight Eastern Time.

PART 2 APPLICATION

2.1 This Instrument does not apply to

- (a) a trade in a security of an issuer that has not been previously issued or for which a prospectus is required to be sent or delivered to the purchaser under securities legislation,
- (b) a trade in a security to the issuer of the security,
- (c) a trade made in connection with a take-over bid, issuer bid, amalgamation, merger, reorganization, arrangement or similar transaction,
- (d) a trade made in accordance with the terms of conversion, exchange or exercise of a security previously issued by an issuer,
- (e) a trade that is a securities lending, repurchase, reverse repurchase or similar financing transaction,
- (f) a trade to which National Instrument 81-102—*Mutual Funds* applies,
- (g) a trade to be settled outside Canada,
- (h) a trade in an option, futures contract or similar derivative, or
- (i) a trade in a negotiable promissory note, commercial paper or similar short-term debt obligation that, in the normal course, would settle in Canada on T.

PART 3 TRADE MATCHING REQUIREMENTS

3.1 Matching deadlines for registered dealer —

- (1) A registered dealer shall not execute a DAP/RAP trade with or on behalf of an institutional investor unless the dealer has established, maintains and enforces policies and procedures designed to achieve matching as soon as practical after such a trade is executed and in any event no later than the end of T.
- (2) Despite subsection (1), the dealer may adapt its policies and procedures to permit matching to occur no later than the end of T+1 for a DAP/RAP trade that results from an order to buy or sell securities received from an institutional investor whose investment decisions are usually made in and communicated from a geographical region outside of the western hemisphere.

3.2 Pre-DAP/RAP trade execution documentation requirement for dealers —

A registered dealer shall not open an account to execute a DAP/RAP trade for an institutional investor or accept an order to execute a DAP/RAP trade for the account of an institutional investor unless each trade-matching party has either

- (a) entered into a trade-matching agreement with the dealer, or

- (b) provided a trade-matching statement to the dealer.

3.3 Matching deadlines for registered adviser —

- (1) A registered adviser shall not give an order to a dealer to execute a DAP/RAP trade on behalf of an institutional investor unless the adviser has established, maintains and enforces policies and procedures designed to achieve matching as soon as practical after such a trade is executed and in any event no later than the end of T.
- (2) Despite subsection (1), the adviser may adapt its policies and procedures to permit matching to occur no later than the end of T+1 for a DAP/RAP trade that results from an order to buy or sell securities received from an institutional investor whose investment decisions are usually made in and communicated from a geographical region outside of the western hemisphere.

3.4 Pre- DAP/RAP trade execution documentation requirement for advisers —

A registered adviser shall not open an account to execute a DAP/RAP trade for an institutional investor or give an order to a dealer to execute a DAP/RAP trade for the account of an institutional investor unless each trade-matching party has either

- (a) entered into a trade-matching agreement with the adviser, or
- (b) provided a trade-matching statement to the adviser.

PART 4 REPORTING REQUIREMENT FOR REGISTRANTS

4.1 A registrant shall deliver Form 24-101F1 to the securities regulatory authority no later than 45 days after the end of a calendar quarter if

- (a) less than 95 percent of the DAP/RAP trades executed by or for the registrant during the quarter matched within the time required in Part 3, or
- (b) the DAP/RAP trades executed by or for the registrant during the quarter that matched within the time required in Part 3 represent less than 95 percent of the aggregate value of the securities purchased and sold in those trades.

PART 5 REPORTING REQUIREMENTS FOR CLEARING AGENCIES

5.1 A clearing agency through which trades governed by this Instrument are cleared and settled shall deliver Form 24-101F2 to the securities regulatory authority no later than 30 days after the end of a calendar quarter.

PART 6 REQUIREMENTS FOR MATCHING SERVICE UTILITIES

6.1 Initial information reporting —

- (1) A person or company shall not carry on business as a matching service utility unless
 - (a) the person or company has delivered Form 24-101F3 to the securities regulatory authority, and
 - (b) at least 90 days have passed since the person or company delivered Form 24-101F3.
- (2) During the 90 day period referred to in subsection (1), if there is a significant change to the information in the delivered Form 24-101F3, the person or company shall inform the securities regulatory authority in writing immediately of that significant change by delivering an amendment to Form 24-101F3 in the manner set out in Form 24-101F3.

6.2 Anticipated change to operations —

At least 45 days before implementing a significant change to any item set out in Form 24-101F3, a matching service utility shall deliver an amendment to the information in the manner set out in Form 24-101F3.

6.3 Ceasing to carry on business as a matching service utility —

- (1) If a matching service utility intends to cease carrying on business as a matching service utility, it shall deliver a report on Form 24-101F4 to the securities regulatory authority at least 30 days before ceasing to carry on that business.

- (2) If a matching service utility involuntarily ceases to carry on business as a matching service utility, it shall deliver a report on Form 24-101F4 as soon as practical after it ceases to carry on that business.

6.4 Ongoing information reporting and record keeping —

- (1) A matching service utility shall deliver Form 24-101F5 to the securities regulatory authority no later than 30 days after the end of a calendar quarter.
- (2) A matching service utility shall keep such books, records and other documents as are reasonably necessary to properly record its business.

6.5 System requirements —

For all of its core systems supporting trade matching, a matching service utility shall

- (a) consistent with prudent business practice, on a reasonably frequent basis, and, in any event, at least annually,
- (i) make reasonable current and future capacity estimates,
 - (ii) conduct capacity stress tests of those systems to determine the ability of the systems to process transactions in an accurate, timely and efficient manner,
 - (iii) implement reasonable procedures to review and keep current the testing methodology of those systems,
 - (iv) review the vulnerability of those systems and data centre computer operations to internal and external threats, including breaches of security, physical hazards and natural disasters, and
 - (v) maintain adequate contingency and business continuity plans;
- (b) annually cause to be performed an independent review and written report, in accordance with generally accepted auditing standards, of the stated internal control objectives of those systems; and
- (c) promptly notify the securities regulatory authority of a material failure of those systems.

PART 7 TRADE SETTLEMENT

7.1 Trade settlement by registered dealer —

- (1) A registered dealer shall not execute a trade unless the dealer has established, maintains and enforces policies and procedures designed to facilitate settlement of the trade on a date that is no later than the standard settlement date for the type of security traded prescribed by an SRO or the marketplace on which the trade would be executed.
- (2) Subsection (1) does not apply to a trade for which terms of settlement have been expressly agreed to by the counterparties to the trade at or before the trade was executed.

PART 8 REQUIREMENTS OF SELF-REGULATORY ORGANIZATIONS AND OTHERS

- 8.1** A clearing agency or matching service utility shall have rules or other instruments or procedures that are consistent with the requirements of Parts 3 and 7.
- 8.2** A requirement of this Instrument does not apply to a member of an SRO if the member complies with a rule or other instrument of the SRO that deals with the same subject matter as the requirement and that has been approved, non-disapproved, or non-objected to by the securities regulatory authority and published by the SRO.

PART 9 EXEMPTION

9.1 Exemption —

- (1) The regulator or the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.

- (3) Except in Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 *Definitions* opposite the name of the local jurisdiction.

PART 10 EFFECTIVE DATES AND TRANSITION

10.1 Effective dates —

- (1) Except as provided in subsections (2) and (3), this Instrument comes into force on April 1, 2007.
- (2) The following come into force on October 1, 2007:
- (a) section 3.2;
 - (b) section 3.4;
 - (c) Part 4;
 - (d) Part 6.
- (3) Despite paragraph (2)(d), Part 6 comes into force in Ontario on the later of
- (a) October 1, 2007, and
 - (b) the day on which Rule 24-501 — *Designation as Market Participant* comes into force.

10.2 Transition —

- (1) A reference to “the end of T” in subsections 3.1(1) and 3.3(1) shall each be read as a reference to “12:00 p.m. (noon) on T+1” for trades executed before July 1, 2008.
- (2) A reference to “the end of T+1” in subsections 3.1(2) and 3.3(2) shall each be read as a reference to “12:00 p.m. (noon) on T+2” for trades executed before July 1, 2008.
- (3) A reference to “95 percent” in sections 4.1(a) and (b) shall each be read as a reference to:
- (a) “80 percent”, for trades executed after September 30, 2007, but before January 1, 2008;
 - (b) “90 percent”, for trades executed after December 31, 2007, but before July 1, 2008;
 - (c) “70 percent”, for trades executed after June 30, 2008, but before January 1, 2009;
 - (d) “80 percent”, for trades executed after December 31, 2008, but before July 1, 2009; and
 - (e) “90 percent”, for trades executed after June 30, 2009, but before January 1, 2010.
- (4) A person or company need not comply with section 6.1 if that person or company
- (a) is already carrying on business as a matching service utility on the date that Part 6 comes into force, and
 - (b) delivers Form 24-101F3 to the securities regulatory authority within 45 days after Part 6 comes into force.

**NATIONAL INSTRUMENT 24-101
(the "Instrument")**

FORM 24-101F1

**REGISTRANT
EXCEPTION REPORT OF
DAP/RAP TRADE REPORTING AND MATCHING**

CALENDAR QUARTER PERIOD COVERED:

From: _____ to: _____

REGISTRANT IDENTIFICATION AND CONTACT INFORMATION:

1. Full name of registrant (if sole proprietor, last, first and middle name):
2. Name(s) under which business is conducted, if different from item 1:
3. Address of registrant's principal place of business:
4. Mailing address, if different from business address:
5. Type of business: Dealer Adviser
6. Category of registration:
7. (a) Registrant NRD number:
(b) If the registrant is a participant of a clearing agency, the registrant's CUID number:
8. Contact employee name:

Telephone number:

E-mail address:

INSTRUCTIONS:

Deliver this form for both equity and debt DAP/RAP trades together with Exhibits A, B and C pursuant to section 4.1 of the Instrument, covering the calendar quarter indicated above, within 45 days of the end of the calendar quarter if

- (a) less than 95 percent* of the equity and/or debt DAP/RAP trades executed by or for you during the quarter matched within the time** required in Part 3 of the Instrument, or
- (b) the equity and/or debt DAP/RAP trades executed by or for you during the quarter that matched within the time** required in Part 3 of the Instrument represent less than 95 percent* of the aggregate value of the securities purchased and sold in those trades.

Transition

* For DAP/RAP trades executed during a transitional period after the Instrument comes into force and before January 1, 2010, this percentage will vary depending on when the trade was executed. See section 10.2(3) of the Instrument.

** The time set out in Part 3 of the Instrument is 11:59 p.m. on, as the case may be, T or T+1. For DAP/RAP trades executed during a transitional period after the Instrument comes into force and before July 1, 2008, this timeline is being phased in and is 12:00 p.m. (noon) on, as the case may be, T+1 or T+2. See subsections 10.2(1) and (2) of the Instrument.

EXHIBITS:

Exhibit A – DAP/RAP trade statistics for the quarter

Complete Tables 1 and 2 below for each calendar quarter.

(1) *Equity DAP/RAP trades*

<i>Entered into CDS by deadline (to be completed by dealers only)</i>				<i>Matched by deadline</i>			
# of Trades	%	\$ Value of Trades	%	# of Trades	%	\$ Value of Trades	%

(2) *Debt DAP/RAP trades*

<i>Entered into CDS by deadline (to be completed by dealers only)</i>				<i>Matched by deadline</i>			
# of Trades	%	\$ Value of Trades	%	# of Trades	%	\$ Value of Trades	%

Exhibit B – Reasons for non-compliance

Describe the circumstances or underlying causes that resulted in or contributed to the failure to achieve the percentage target for matched equity and/or debt DAP/RAP trades within the maximum time prescribed by Part 3 of the Instrument. Reasons given could be one or more matters within your control or due to another trade-matching party or service provider. If you have insufficient information to determine the percentages, the reason for this should be provided. See also Companion Policy 24-101CP to the Instrument.

Exhibit C – Steps to address delays

Describe what specific steps you are taking to resolve delays in the equity and/or debt DAP/RAP trade reporting and matching process in the future. Indicate when each of these steps is expected to be implemented. The steps being taken could be internally focused, such as implementing a new system or procedure, or externally focused, such as meeting with a trade-matching party to determine what action should be taken by that party. If you have insufficient information to determine the percentages, the steps being taken to obtain this information should be provided. See also Companion Policy 24-101CP to the Instrument.

CERTIFICATE OF REGISTRANT

The undersigned certifies that the information given in this report on behalf of the registrant is true and correct.

DATED at _____ this ____ day of _____ 20__

(Name of registrant - type or print)

(Name of director, officer or partner - type or print)

(Signature of director, officer or partner)

(Official capacity - type or print)

**NATIONAL INSTRUMENT 24-101
(the "Instrument")**

FORM 24-101F2

**CLEARING AGENCY
QUARTERLY OPERATIONS REPORT OF
INSTITUTIONAL TRADE REPORTING AND MATCHING**

CALENDAR QUARTER PERIOD COVERED:

From: _____ to: _____

IDENTIFICATION AND CONTACT INFORMATION:

1. Full name of clearing agency:
2. Name(s) under which business is conducted, if different from item 1:
3. Address of clearing agency's principal place of business:
4. Mailing address, if different from business address:
5. Contact employee name:
Telephone number:
E-mail address:

INSTRUCTIONS:

Deliver this form together with all exhibits pursuant to section 5.1 of the Instrument, covering the calendar quarter indicated above, within 30 days of the end of the calendar quarter.

Exhibits shall be provided in an electronic file, in the following file format: "CSV" (Comma Separated Variable) (e.g., the format produced by Microsoft Excel).

EXHIBITS:

1. DATA REPORTING

Exhibit A – Aggregate matched trade statistics

For client trades, provide the information to complete Tables 1 and 2 below for each month in the quarter. These two tables can be integrated into one report. Provide separate aggregate information for trades that have been reported or entered into your facilities as matched trades by a matching service utility.

Month/Year: _____ (MMM/YYYY)

Table 1—Equity trades:

	Entered into clearing agency by dealers				Matched in clearing agency by custodians			
	# of Trades	% Industry	\$ Value of Trades	% Industry	# of Trades	% Industry	\$ Value of Trades	% Industry
T								
T+1								
T+2								
T+3								
>T+3								
Total								

Table 2—Debt trades:

	Entered into clearing agency by dealers				Matched in clearing agency by custodians			
	# of Trades	% Industry	\$ Value of Trades	% Industry	# of Trades	% Industry	\$ Value of Trades	% Industry
T								
T+1								
T+2								
T+3								
>T+3								
Total								

Legend

“# of Trades” is the total number of transactions in the month;
 “\$ Value of Trades” is the total value of the transactions (purchases and sales) in the month.

Exhibit B – Individual matched trade statistics

Using the format below, for each participant of the clearing agency, provide the percent of client trades during the quarter that have been entered and matched by the participant within the time required in Part 3 of the Instrument. The percentages given should relate to both the number of client trades that have been matched within the time and the aggregate value of the securities purchased and sold in the client trades that have been matched within the time.

Participant	Percentage matched within timelines			
	Equity trades		Debt trades	
	By # of transactions	By Value	By # of transactions	By Value

CERTIFICATE OF CLEARING AGENCY

The undersigned certifies that the information given in this report on behalf of the clearing agency is true and correct.

DATED at _____ this ____ day of _____ 20__

(Name of clearing agency - type or print)

(Name of director, officer or partner - type or print)

(Signature of director, officer or partner)

(Official capacity - type or print)

**NATIONAL INSTRUMENT 24-101
(the "Instrument")**

FORM 24-101F3

**MATCHING SERVICE UTILITY
NOTICE OF OPERATIONS**

DATE OF COMMENCEMENT INFORMATION:

Effective date of commencement of operations: _____ (DD/MMM/YYYY)

TYPE OF INFORMATION: INITIAL SUBMISSION AMENDMENT

MATCHING SERVICE UTILITY IDENTIFICATION AND CONTACT INFORMATION:

1. Full name of matching service utility:
2. Name(s) under which business is conducted, if different from item 1:
3. Address of matching service utility's principal place of business:
4. Mailing address, if different from business address:
5. Contact employee name:

Telephone number:

E-mail address:

6. Legal counsel:

Firm name:

Telephone number:

E-mail address:

GENERAL INFORMATION:

7. Website address:
8. Date of financial year-end: _____ (DD/MMM/YYYY)
9. Indicate the form of your legal status (e.g., corporation, limited or general partnership), the date of formation, and the jurisdiction under which you were formed:

Legal status: CORPORATION PARTNERSHIP
 OTHER (SPECIFY):

(a) Date of formation: _____ (DD/MMM/YYYY)

(b) Jurisdiction and manner of formation:

10. Specify the general types of securities for which information is being or will be received and processed by you for transmission of matched trades to a clearing agency (e.g. exchange-traded domestic equity and debt securities, exchange-traded foreign equity and debt securities, equity and debt securities traded over-the-counter).

INSTRUCTIONS:

Deliver this form together with all exhibits pursuant to section 6.1 or 10.2(4) of the Instrument.

For each exhibit, include your name, the date of delivery of the exhibit and the date as of which the information is accurate (if different from the date of the delivery). If any exhibit required is not applicable, a full statement describing why the exhibit is not applicable shall be furnished in lieu of the exhibit. To the extent information requested for an exhibit is identical to the information requested in another form that you have filed or delivered under National Instrument 21-101 *Marketplace Operation*, simply attach a copy of that other form and indicate in this form where such information can be found in that other form.

If you are delivering an amendment to Form 24-101F3 pursuant to section 6.1(2) or 6.2 of the Instrument, and the amended information relates to an exhibit that was delivered with such form, provide a description of the change and complete and deliver an updated exhibit. If you are delivering Form 24-101F3 pursuant to section 10.2(4) of the Instrument, simply indicate at the top of this form under "Date of Commencement Information" that you were already carrying on business as a matching service utility in the relevant jurisdiction on the date that Part 6 of the Instrument came into force.

EXHIBITS:

1. CORPORATE GOVERNANCE

Exhibit A – Constatng documents

Provide a copy of your constating documents, including corporate by-laws and other similar documents, as amended from time to time.

Exhibit B – Ownership

List any person or company that owns 10 percent or more of your voting securities or that, either directly or indirectly, through agreement or otherwise, may control your management. Provide the full name and address of each person or company and attach a copy of the agreement or, if there is no written agreement, briefly describe the agreement or basis through which the person or company exercises or may exercise control or direction.

Exhibit C – Officials

Provide a list of the partners, officers, directors or persons performing similar functions who presently hold or have held their offices or positions during the current and previous calendar year, indicating the following for each:

1. Name.
2. Title.
3. Dates of commencement and expiry of present term of office or position and length of time the office or position held.
4. Type of business in which each is primarily engaged and current employer.
5. Type of business in which each was primarily engaged in the preceding five years, if different from that set out in item 4.
6. Whether the person is considered to be an independent director.

Exhibit D – Organizational structure

Provide a narrative or graphic description of your organizational structure.

Exhibit E – Affiliated entities

For each person or company affiliated to you, provide the following information:

1. Name and address of affiliated entity.
2. Form of organization (e.g., association, corporation, partnership).
3. Name of jurisdiction and statute under which organized.
4. Date of incorporation in present form.

5. Brief description of nature and extent of affiliation or contractual or other agreement with you.
6. Brief description of business services or functions.
7. If a person or company has ceased to be affiliated with you during the previous year or ceased to have a contractual or other agreement relating to your operations during the previous year, provide a brief statement of the reasons for termination of the relationship.

2. FINANCIAL VIABILITY

Exhibit F – Audited financial statements

Provide your audited financial statements for the latest financial year and a report prepared by an independent auditor.

3. FEES

Exhibit G – Fee list, fee structure

Provide a complete list of all fees and other charges imposed, or to be imposed, by you for use of your services as a matching service utility, including the cost of establishing a connection to your systems.

4. ACCESS

Exhibit H – Users

Provide a list of all users or subscribers for which you provide or propose to provide the services of a matching service utility. Identify the type(s) of business of each user or subscriber (e.g., custodian, dealer, adviser or other party).

If applicable, for each instance during the past year in which any user or subscriber of your services has been prohibited or limited in respect of access to such services, indicate the name of each such user or subscriber and the reason for the prohibition or limitation.

Exhibit I – User contract

Provide a copy of each form of agreement governing the terms by which users or subscribers may subscribe to your services of a matching service utility.

5. SYSTEMS AND OPERATIONS

Exhibit J – System description

Describe the manner of operation of your systems for performing your services of a matching service utility (including, without limitation, systems that collect and process trade execution details and settlement instructions for matching of trades). This description should include the following:

1. The hours of operation of the systems, including communication with a clearing agency.
2. Locations of operations and systems (e.g., countries and cities where computers are operated, primary and backup).
3. A brief description in narrative form of each service or function performed by you.

6. SYSTEMS COMPLIANCE

Exhibit K – Security

Provide a brief description of the processes and procedures implemented by you to provide for the security of any system used to perform your services of a matching service utility.

Exhibit L – Capacity planning and measurement

1. Provide a brief description of capacity planning/performance measurement techniques and system and stress testing methodologies.

2. Provide a brief description of testing methodologies with users or subscribers. For example, when are user/subscriber tests employed? How extensive are these tests?

Exhibit M – Business continuity

Provide a brief description of your contingency and business continuity plans in the event of a catastrophe.

Exhibit N – Material systems failures

Provide a brief description of policies and procedures in place for reporting to regulators material systems failures. Material systems failures include serious incidents that result in the interruption of the matching of trades for more than thirty minutes during normal business hours.

Exhibit O – Independent systems audit

1. Briefly describe your plans to provide an annual independent audit of your systems.
2. If applicable, provide a copy of the last external systems operations audit report.

7. INTEROPERABILITY

Exhibit P – Interoperability agreements

List all other matching service utilities for which you have entered into an *interoperability* agreement. Provide a copy of all such agreements.

8. OUTSOURCING

Exhibit Q – Outsourcing firms

For each person or company (outsourcing firm) with whom or which you have an outsourcing agreement or arrangement relating to your services of a matching service utility, provide the following information:

1. Name and address of the outsourcing firm.
2. Brief description of business services or functions of the outsourcing firm.
3. Brief description of the outsourcing firm's contingency and business continuity plans in the event of a catastrophe.

CERTIFICATE OF MATCHING SERVICE UTILITY

The undersigned certifies that the information given in this report on behalf of the matching service utility is true and correct.

DATED at _____ this ____ day of _____ 20____

(Name of matching service utility - type or print)

(Name of director, officer or partner - type or print)

(Signature of director, officer or partner)

(Official capacity - type or print)

**NATIONAL INSTRUMENT 24-101
(the "Instrument")**

FORM 24-101F4

**MATCHING SERVICE UTILITY
NOTICE OF CESSATION OF OPERATIONS**

DATE OF CESSATION INFORMATION:

Type of information: VOLUNTARY CESSATION
 INVOLUNTARY CESSATION

Effective date of operations cessation: _____ (DD/MMM/YYYY)

MATCHING SERVICE UTILITY IDENTIFICATION AND CONTACT INFORMATION:

1. Full name of matching service utility:
2. Name(s) under which business is conducted, if different from item 1:
3. Address of matching service utility's principal place of business:
4. Mailing address, if different from business address:
5. Legal counsel:
 Firm name:
 Telephone number:
 E-mail address:

INSTRUCTIONS:

Deliver this form together with all exhibits pursuant to section 6.3 of the Instrument.

For each exhibit, include your name, the date of delivery of the exhibit and the date as of which the information is accurate (if different from the date of the delivery). If any exhibit required is not applicable, a full statement describing why the exhibit is not applicable shall be furnished in lieu of the exhibit.

EXHIBITS:

Exhibit A

Provide the reasons for your cessation of business.

Exhibit B

Provide a list of all the users or subscribers for which you provided services during the last 30 days prior to you ceasing business. Identify the type(s) of business of each user or subscriber (e.g., custodian, dealer, adviser, or other party).

Exhibit C

List all other matching service utilities for which an *interoperability* agreement was in force immediately prior to cessation of business.

CERTIFICATE OF MATCHING SERVICE UTILITY

The undersigned certifies that the information given in this report on behalf of the matching service utility is true and correct.

DATED at _____ this ____ day of _____ 20____

(Name of matching service utility - type or print)

(Name of director, officer or partner - type or print)

(Signature of director, officer or partner)

(Official capacity - type or print)

**NATIONAL INSTRUMENT 24-101
(the "Instrument")**

FORM 24-101F5

**MATCHING SERVICE UTILITY
QUARTERLY OPERATIONS REPORT OF
INSTITUTIONAL TRADE REPORTING AND MATCHING**

CALENDAR QUARTER PERIOD COVERED:

From: _____ to: _____

MATCHING SERVICE UTILITY IDENTIFICATION AND CONTACT INFORMATION:

1. Full name of matching service utility:
2. Name(s) under which business is conducted, if different from item 1:
3. Address of matching service utility's principal place of business:
4. Mailing address, if different from business address:
5. Contact employee name:
Telephone number:
E-mail address:

INSTRUCTIONS:

Deliver this form together with all exhibits pursuant to section 6.4 of the Instrument, covering the calendar quarter indicated above, within 30 days of the end of the calendar quarter.

Exhibits shall be reported in an electronic file, in the following format: "CSV" (Comma Separated Variable) (e.g., the format produced by Microsoft Excel).

If any information specified is not available, a full statement describing why the information is not available shall be separately furnished.

EXHIBITS

1. SYSTEMS REPORTING

Exhibit A – External systems audit

If an external audit report on your core systems was prepared during the quarter, provide a copy of the report.

Exhibit B – Material systems failures reporting

Provide a brief summary of all material systems failures that occurred during the quarter and for which you were required to notify the securities regulatory authority under section 6.5(c) of the Instrument.

2. DATA REPORTING

Exhibit C – Aggregate matched trade statistics

Provide the information to complete Tables 1 and 2 below for each month in the quarter. These two tables can be integrated into one report.

Month/Year: _____ (MMM/YYYY)

Table 1—Equity trades:

	Entered into matching service utility by dealer-users/subscribers				Matched in matching service utility by other users/subscribers			
	# of Trades	% Industry	\$ Value of Trades	% Industry	# of Trades	% Industry	\$ Value of Trades	% Industry
T								
T+1								
T+2								
T+3								
>T+3								
Total								

Table 2—Debt trades:

	Entered into matching service utility by dealer-users/subscribers				Matched in matching service utility by other users/subscribers			
	# of Trades	% Industry	\$ Value of Trades	% Industry	# of Trades	% Industry	\$ Value of Trades	% Industry
T								
T+1								
T+2								
T+3								
>T+3								
Total								

Legend

“# of Trades” is the total number of transactions in the month;
 “\$ Value of Trades” is the total value of the transactions (purchases and sales) in the month.

Exhibit D – Individual matched trade statistics

Using the format below, provide the percent of trades during the quarter for each user or subscriber that have been entered and matched within the time required in Part 3 of the Instrument. The percentages given should relate to both the number of trades that have been matched within the time and the aggregate value of the securities purchased and sold in the trades that have been matched within the time.

<u>User/ Subscriber</u>	Percentage matched within timelines			
	<u>Equity trades</u>		<u>Debt trades</u>	
	<u>By # of transactions</u>	<u>By value</u>	<u>By # of transactions</u>	<u>By value</u>

CERTIFICATE OF MATCHING SERVICE UTILITY

The undersigned certifies that the information given in this report on behalf of the matching service utility is true and correct.

DATED at _____ this ____ day of _____ 20__

(Name of matching service utility- type or print)

(Name of director, officer or partner - type or print)

(Signature of director, officer or partner)

(Official capacity - type or print)

CANADIAN SECURITIES ADMINISTRATORS
COMPANION POLICY 24-101CP
TO NATIONAL INSTRUMENT 24-101—
INSTITUTIONAL TRADE MATCHING AND SETTLEMENT

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**COMPANION POLICY 24-101CP
TO NATIONAL INSTRUMENT 24-101—
INSTITUTIONAL TRADE MATCHING AND SETTLEMENT**

PART 1 INTRODUCTION, PURPOSE AND DEFINITIONS¹

1.1 Purpose of Instrument — National Instrument 24-101—*Institutional Trade Matching and Settlement* (Instrument) provides a framework in provincial securities regulation for more efficient and timely trade settlement processing, particularly institutional trades. The increasing volumes and dollar values of securities traded in Canada and globally by institutional investors mean existing back-office systems and procedures of market participants are challenged to meet post-execution processing demands. New requirements are needed to address the increasing risks. The Instrument is part of a broader initiative in the Canadian securities markets to implement straight-through processing (STP).²

1.2 General explanation of matching, clearing and settlement —

(1) *Parties to institutional trade* — A typical trade with or on behalf of an institutional investor might involve at least three parties:

- a registered adviser or other *buy-side* manager acting for an institutional investor in the trade—and often acting on behalf of more than one institutional investor in the trade (i.e., multiple underlying institutional client accounts)—who decides what securities to buy or sell and how the assets should be allocated among the client accounts;
- a registered dealer (including an Alternative Trading System registered as a dealer) responsible for executing or clearing the trade; and
- any financial institution or registered dealer (including under a *prime brokerage* arrangement) appointed to hold the institutional investor's assets and settle trades.

(2) *Matching* — A first step in settling a securities trade is to ensure that the buyer and the seller agree on the details of the transaction, a process referred to as trade confirmation and affirmation or trade *matching*.³ A registered dealer who executes trades with or on behalf of others is required to report and confirm trade details, not only with the counterparty to the trade, but also with the client for whom it acted or the client with whom it traded (in which case, the client would be the counterparty). Similarly, a registered adviser or other buy-side manager is required to report trade details and provide settlement instructions to its custodian. The parties must agree on trade details—sometimes referred to as *trade data elements*—as soon as possible so that errors and discrepancies in the trades can be discovered early in the clearing and settlement process.

(3) *Matching process* — Verifying the trade data elements is necessary to *match* a trade executed on behalf of or with an institutional investor. Matching occurs when the relevant parties to the trade have, after verifying the trade data elements, reconciled or agreed to the details of the trade. Matching also requires that any custodian holding the institutional investor's assets be in a position to affirm the trade so that the trade can be ready for the clearing and settlement process through the facilities of the clearing agency. To illustrate, trade matching usually includes these following activities:

- (a) The registered dealer notifies the buy-side manager that the trade was executed.

¹ In this Companion Policy, the terms “CSA”, “we”, “our” or “us” are used interchangeably and generally mean the same thing as *Canadian securities regulatory authorities* defined in National Instrument 14-101 — *Definitions*.

² For a discussion of Canadian STP initiatives, see Canadian Securities Administrators' (CSA) Discussion Paper 24-401 on *Straight-through Processing* and Request for Comments, April 16, 2004 (2004) 27 OSCB 3971 to 4031 (Discussion Paper 24-401); and CSA Notice 24-301—*Responses to Comments Received on Discussion Paper 24-401 on Straight-through Processing, 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*, February 11, 2005 (2005) 28 OSCB 1509 to 1526.

³ The processes and systems for matching of “non-institutional trades” in Canada have evolved over time and become automated, such as retail trades on an exchange, which are matched or *locked-in* automatically at the exchange, or direct non-exchange trades between two participants of a clearing agency, which are generally matched through the facilities of the clearing agency. Dealer to dealer trades are subject to Investment Dealers Association of Canada (IDA) Regulation 800.49, which provides that trades in non-exchange traded securities (including government debt securities) among dealers must be entered or accepted or rejected through the facilities of an “Acceptable Trade Matching Utility” within one hour of the execution of the trade.

- (b) The buy-side manager advises the dealer and any custodian(s) how the securities traded are to be allocated among the underlying institutional client accounts managed by the buy-side manager.⁴ For so-called *block settlement trades*, the dealer sometimes receives allocation information from the buy-side manager based only on the number of custodians holding institutional investors' assets instead of on the actual underlying institutional client accounts managed by the buy-side manager.
 - (c) The dealer reports and confirms the trade details to the buy-side manager and clearing agency. The trade details required to be confirmed for matching, clearing and settlement purposes are generally similar to the information required in the customer trade confirmation delivered pursuant to securities legislation or self-regulatory organization (SRO) rules.⁵
 - (d) The custodian or custodians of the assets of the institutional investor verify the trade details and settlement instructions against available securities or funds held for the institutional investor. After trade details are agreed, the buy-side manager instructs the custodian(s) to release funds and/or securities to the dealer through the facilities of the clearing agency.
- (4) *Clearing and settlement* — The *clearing* of a trade begins after the execution of the trade. After matching is completed, clearing will involve the calculation of the mutual obligations of participants for the exchange of securities and money—a process which generally occurs within the facilities of a clearing agency. The *settlement* of a trade is the moment when the securities are transferred finally and irrevocably from one participant to another in exchange for a corresponding transfer of money. In the context of settlement of a trade through the facilities of a clearing agency, often acting as central counterparty, settlement will be the discharge of obligations in respect of funds or securities, computed on a net basis, between and among the clearing agency and its participants. Through the operation of novation and set-off in law or by contract, the clearing agency becomes a counterparty to each trade so that the mutual obligation to settle the trade is between the clearing agency and each participant.

1.3 Section 1.1 - Definitions and scope —

- (1) *Clearing agency* — Today, the definition of *clearing agency* applies only to The Canadian Depository for Securities Limited (CDS). The definition takes into account the fact that securities regulatory authorities in Ontario and Quebec currently recognize or otherwise regulate clearing agencies in Canada under provincial securities legislation.⁶ The functional meaning of *clearing agency* can be found in the securities legislation of certain jurisdictions.⁷
- (2) *Custodian* — While investment assets are sometimes held directly by investors, most are held on behalf of the investor by or through securities accounts maintained with a financial institution or dealer. The definition of *custodian* includes both a financial institution (non-dealer custodian) and a dealer acting as custodian (dealer custodian). Most institutional investors, such as pension and mutual funds, hold their assets through custodians that are prudentially-regulated financial institutions. However, others (like hedge funds) often maintain their investment assets with dealers under so-called *prime-brokerage* arrangements. A financial institution or dealer in Canada need not necessarily have a direct contractual relationship with an institutional investor to be considered a custodian of portfolio assets of the institutional investor for the purposes of the Instrument if it is acting as sub-custodian to a global custodian or international central securities depository.
- (3) *Institutional investor* — An individual can be an “institutional investor” if the individual has been granted DAP/RAP trading privileges (i.e., he or she has a DAP/RAP account with a dealer). This will likely be the case whenever an individual’s investment assets are held by or through securities accounts maintained with a custodian instead of the individual’s dealer that executes his or her trades. While the expression “institutional trade” is not defined in the Instrument, we use the expression in this Companion Policy to mean broadly any DAP/RAP trade.
- (4) *DAP/RAP trade* — The concepts *delivery against payment* and *receipt against payment* are generally understood by the industry. They are also defined terms in the Notes and Instructions (Schedule 4) to the *Joint Regulatory Financial Questionnaire and Report* of the Canadian SROs. All DAP/RAP trades, whether settled by a non-dealer custodian or a

⁴ We remind investment counsel/portfolio managers (ICPMs) of their obligations to ensure fairness in the allocation of investment opportunities among the ICPM’s clients. An ICPM’s written fairness policies should include the following disclosures, where applicable to its investment processes: (i) method used to allocate price and commission among clients when trades are bunched or blocked; (ii) method used to allocate block trades and IPOs among client accounts, and (iii) method used to allocate among clients block trades and IPOs that are partially filled (e.g., pro-rata). Securities legislation requires ICPMs to file a copy of their current fairness policies with securities regulatory authorities. See, for example, Regulation 115 under the *Securities Act* (Ontario) and OSC Staff Notice 33-723—*Fair Allocation of Investment Opportunities—Compliance Team Desk Review*.

⁵ See, for example, section 36 of the *Securities Act* (Ontario), The Toronto Stock Exchange (TSX) Rule 2-405 and IDA Regulation 200.1(h).

⁶ CDS is also regulated by the Bank of Canada pursuant to the *Payment Clearing and Settlement Act* (Canada).

⁷ See, for example, s. 1(1) of the *Securities Act* (Ontario).

dealer custodian, are subject to the requirements of Part 3 of the Instrument. The definition of DAP/RAP trade excludes a trade for which settlement is made on behalf of a client by a custodian that is also the dealer that executed the trade.

- (5) Trade-matching party — An institutional investor, whether Canadian or foreign-based, is a trade-matching party. As such, it or its adviser would be required to enter into a trade-matching agreement or provide a trade-matching statement under Part 3 of the Instrument. A custodian that settles a trade on behalf of an institutional investor is also a trade-matching party and must enter into a trade-matching agreement or provide a trade-matching statement. However, a foreign global custodian or international central securities depository that holds Canadian portfolio assets through a local Canadian sub-custodian would not normally be considered a trade-matching party if it is not a clearing agency participant or otherwise directly involved in settling the trade in Canada.
- (6) Application of Instrument — Part 2 of the Instrument enumerates certain types of trades that are not subject to the Instrument.

PART 2 TRADE MATCHING REQUIREMENTS

2.1 Trade data elements — Trade data elements that must be verified and agreed to are those identified by the SROs or the best practices and standards for institutional trade processing established and generally adopted by the industry. See section 2.4 of this Companion Policy. To illustrate, trade data elements that should be transmitted, compared and agreed to may include the following:

- (a) *Security identification*: standard numeric identifier, currency, issuer, type/class/series, market ID; and
- (b) *Order and trade information*: dealer ID, account ID, account type, buy/sell indicator, order status, order type, unit price/face amount, number of securities/quantity, message date/time, trade transaction type, commission, accrued interest (fixed income), broker settlement location, block reference, net amount, settlement type, allocation sender reference, custodian, payment indicator, IM portfolio/account ID, quantity allocated, and settlement conditions.

2.2 Trade matching deadlines for registrants — The obligation of a registered dealer or registered adviser to establish, maintain and enforce policies and procedures, pursuant to sections 3.1 and 3.3 of the Instrument, will require the dealer or adviser to take reasonable steps to achieve matching as soon as practical after the DAP/RAP trade is executed and in any event no later than the end of T. If the trade results from an order to buy or sell securities received from an institutional investor whose investment decisions are usually made in and communicated from a geographical region outside of the western hemisphere, the deadline for matching is the end of T+1 (subsections 3.1(2) and 3.3(2)).

2.3 Choice of trade-matching agreement or trade-matching statement —

- (1) Establishing, maintaining and enforcing policies and procedures —
- (a) A registered dealer or registered adviser can open an account for an institutional investor, or accept or give, as the case may be, an order for an existing account of an institutional investor, only if each of the trade-matching parties has either (i) entered into a trade-matching agreement with the dealer or adviser or (ii) provided or made available a trade-matching statement to the dealer or adviser (sections 3.2 and 3.4). The purpose of the trade-matching agreement or trade-matching statement is to ensure that all trade-matching parties have established, maintain, and enforce appropriate policies and procedures designed to achieve matching of a DAP/RAP trade as soon as practical after the trade is executed.
- (b) The parties described in paragraphs (a), (b), (c) and (d) of the definition “trade-matching party” in section 1.1 of the Instrument need not necessarily all be involved in a trade for the requirements of sections 3.2 and 3.4 of the Instrument to apply. For example, the requirement to enter into a trade-matching agreement or provide a trade-matching statement will apply in a simple case where an individual has a DAP/RAP trading account with a dealer and investment assets held separately by a custodian (sections 3.2 and 3.4). There is no need for an adviser to be involved in the individual's investment decisions for the requirement to apply to the dealer, the custodian and the institutional investor. In this case, the trade-matching parties that must have appropriate policies and procedures in place would be the individual (as institutional investor), the dealer and the custodian.
- (c) Where a trade-matching party is an entity, we are of the view that a trade-matching agreement or trade-matching statement should be signed by a senior executive officer of the entity to ensure its policies and procedures are given sufficient attention and priority within the entity's senior management. A senior executive officer would be any individual who is (a) the chair of the entity, if that individual performs the functions of the office on a full time basis, (b) a vice-chair of the entity, if that individual performs the functions of the office on

a full time basis, (c) the president, chief executive officer or chief operating officer of the entity, and (d) a senior vice-president of the entity in charge of the entity's operations and back-office functions.

(2) Trade-matching agreement —

- (a) A registered dealer or registered adviser need only enter into one trade-matching agreement with the other trade-matching parties for new or existing DAP/RAP trading accounts of an institutional investor for all future trades in relation to such account. The trade-matching agreement may be a single multi-party agreement among the trade-matching parties, or a network of bilateral agreements. A single trade-matching agreement is also sufficient for the general and all sub-accounts of the registered adviser or buy-side manager. If the dealer or adviser uses a trade-matching agreement, the form of such agreement may be incorporated into the institutional account opening documentation and may be modified from time to time with the consent of the parties.
- (b) The agreement must specify the roles and responsibilities of each of the trade-matching parties and should describe the minimum standards and best practices to be incorporated into the policies and procedures that each party has in place. This should include the timelines for accomplishing the various steps and tasks of each trade-matching party for timely matching. For example, the agreement may include, as applicable, provisions dealing with:

For the dealer executing and/or clearing the trade:

- how and when the notice of trade execution (NOE) is to be given to the institutional investor or its adviser, including the format and content of the NOE (e.g., electronic);
- how and when trade details are to be entered into the dealer's internal systems and the clearing agency's systems;
- how and when the dealer is to correct or adjust trade details entered into its internal systems or the clearing agency's systems as may be required to agree to trade details with the institutional investor or its adviser;
- general duties of the dealer to cooperate with other trade-matching parties in the investigation, adjustment, expedition and communication of trade details to ensure trades can be matched within prescribed timelines.

For the institutional investor or its adviser:

- how and when to review the NOE's trade details, including identifying any differences from its own records;
- how and when to notify the dealer of trade differences, if any, and resolve such differences;
- how and when to determine and communicate settlement details and account allocations to dealer and/or custodian(s);
- general duties of the institutional investor or its adviser to cooperate with other trade-matching parties in the investigation, adjustment, expedition and communication of trade details to ensure trades can be matched within prescribed timelines.

For the custodian settling the trade at the clearing agency:

- how and when to receive trade details and settlement instructions from institutional investors or their advisers;
- how and when to review and monitor trade details submitted to the clearing agency on an ongoing basis for items entered and awaiting affirmation or challenge;
- how and when to report to institutional investors or their advisers on an ongoing basis changes to the status of a trade and the matching of a trade;

- general duties of the custodian to cooperate with other trade-matching parties in the investigation, adjustment, expedition and communication of trade details to ensure trades can be matched within prescribed timelines.
- (3) ***Trade-matching statement*** — A single trade-matching statement is sufficient for the general and all sub-accounts of the registered adviser or buy-side manager. A registered dealer or registered adviser may accept a trade-matching statement signed by a senior executive officer of a trade-matching party without further investigation and may continue to rely upon the statement for all future trades in an account, unless the dealer or adviser has knowledge that any statements or facts set out in the statement are incorrect. Mass mailings or emails of a trade-matching statement, or the posting of a single uniform trade-matching statement on a Website, would be acceptable ways of providing the statement to other trade-matching parties. A registrant may rely on a trade-matching party's representations that the trade-matching statement was provided to the other trade-matching parties without further investigation.
- (4) ***Monitoring and enforcement of undertakings in trade-matching documentation*** — Registered dealers and advisers should use reasonable efforts to monitor compliance with the terms or undertakings set out in the trade-matching agreements or trade-matching statements. Dealers and advisers should report details of non-compliance in their Form 24-101F1 exception reports. This could include identifying to the regulators those trade-matching parties that are consistently non-compliant either because they do not have adequate policies and procedures in place or because they are not consistently complying with them.

Dealers and advisers should also take active steps to address problems if the policies and procedures of other trade-matching parties appear to be inadequate and are causing delays in the matching process. Such steps might include imposing monetary incentives (e.g. penalty fees) or requesting a third party review or assessment of the party's policies and procedures. This approach could enhance cooperation among the trade-matching parties leading to the identification of the root causes of failures to match trades on time.

2.4 Determination of appropriate policies and procedures —

- (1) ***Best practices*** — We are of the view that, when establishing appropriate policies and procedures, a party should consider the industry's generally adopted best practices and standards for institutional trade processing.⁸ It should also include those policies and procedures into its regulatory compliance and risk management programs.
- (2) ***Different policies and procedures*** — We recognize that appropriate policies and procedures may not be the same for all registered dealers, registered advisers and other market participants because of the varying nature, scale and complexity of a market participant's business and risks in the trading process. For example, policies and procedures designed to achieve matching may differ among a registered dealer that acts as an "introducing broker" and one that acts as a "carrying broker".⁹ In addition, if a dealer is not a clearing agency participant, the dealer's policies and procedures to expeditiously achieve matching should be integrated with the clearing arrangements that it has with any other dealer acting as carrying or clearing broker for the dealer. Establishing appropriate policies and procedures may require registered dealers, registered advisers and other market participants to upgrade their systems and enhance their interoperability with others.¹⁰

2.5 Use of matching service utility — The Instrument does not require the trade-matching parties to use the facilities or services of a matching service utility to accomplish matching of trades within the prescribed timelines. However, if such facilities or services are made available in Canada, the use of such facilities or services may help a trade-matching party's compliance with the Instrument's requirements.

PART 3 INFORMATION REPORTING REQUIREMENTS

3.1 Exception reporting for registrants —

- (a) Part 4 of the Instrument requires a registrant to complete and deliver to the securities regulatory authority Form 24-101F1 and related exhibits. Form 24-101F1 need only be delivered if less than a percentage target of the DAP/RAP trades executed by or for the registrant in any given calendar quarter have matched within the time required by the Instrument. Tracking of a registrant's trade-matching statistics may be outsourced to a

⁸ The Canadian Capital Markets Association (CCMA) released in December 2003 the final version of a document entitled *Canadian Securities Marketplace Best Practices and Standards: Institutional Trade Processing, Entitlements and Securities Lending* ("CCMA Best Practices and Standards White Paper") that sets out best practices and standards for the processing for settlement of institutional trades, the processing of entitlements (corporate actions), and the processing of securities lending transactions. The CCMA Best Practices and Standards White Paper can be found on the CCMA website at www.ccma-acmc.ca.

⁹ See IDA By-Law No. 35 — *Introducing Broker / Carrying Broker Arrangements*.

¹⁰ See Discussion Paper 24-401, at p. 3984, for a discussion of *interoperability*.

third party service provider, including a clearing agency or custodian. However, despite the outsourcing arrangement, the registrant retains full legal and regulatory liability and accountability to the Canadian securities regulatory authorities for its exception reporting requirements. If a registrant has insufficient information to determine whether it has achieved the percentage target of matched DAP/RAP trades in any given calendar quarter, it must explain in Form 24-101F1 the reasons for this and the steps it is taking to obtain this information in the future.

- (b) Form 24-101F1 requires registrants to provide aggregate quantitative information on their equity and debt DAP/RAP trades. They must also provide qualitative information on the circumstances or underlying causes that resulted in or contributed to the failure to achieve the percentage target for matched equity and/or debt DAP/RAP trades within the maximum time prescribed by Part 3 of the Instrument and the specific steps they are taking to resolve delays in the trade reporting and matching process in the future. Registrants should provide information that is relevant to their circumstances. For example, dealers should provide information demonstrating problems with NOEs or reporting of trade details to the clearing agency. Reasons given for the failure could be one or more matters within the registrant's control or due to another trade-matching party or service provider.
- (c) The steps being taken by a registrant to resolve delays in the matching process could be internally focused, such as implementing a new system or procedure, or externally focused, such as meeting with a trade-matching party to determine what action should be taken by that party. Dealers should confirm what steps they have taken to inform and encourage their clients to comply with the requirements or undertakings of the trade-matching agreement and/or trade-matching statement. They should confirm what problems, if any, they have encountered with their clients, other trade-matching parties or service providers. They should identify the trade-matching party or service provider that appears to be consistently not meeting matching deadlines or to have no reasonable policies and procedures in place. Advisers should provide similar information, including information demonstrating problems with communicating allocations or with service providers or custodians.

3.2 Regulatory reviews of registrant exception reports —

- (a) We will review the completed Forms 24-101F1 on an ongoing basis to monitor and assess compliance by registrants with the Instrument's matching requirements. We will identify problem areas in matching, including identifying trade-matching parties that have no or weak policies and procedures in place to ensure matching of trades is accomplished within the time prescribed by Part 3 of the Instrument. Monitoring and assessment of registrant matching activities may be undertaken by the SROs in addition to, or in lieu of, reviews undertaken by us.
- (b) Consistent inability to meet the matching percentage target will be considered as evidence by the Canadian securities regulatory authorities that either the policies and procedures of one or more of the trade matching parties have not been properly designed or, if properly designed, have been inadequately complied with. Consistently poor qualitative reporting will also be considered as evidence of poorly designed or implemented policies and procedures. See also section 2.3(4) of this Companion Policy for a further discussion of our approach to compliance and enforcement of the trade-matching requirements of the Instrument.

3.3 Other information reporting requirements — Clearing agencies and matching service utilities are required to include in Forms 24-101F2 and 24-101F5 certain trade-matching information in respect of their participants or users/subscribers. The purpose of this information is to facilitate monitoring and enforcement by the Canadian securities regulatory authorities or SROs of the Instrument's matching requirements.

3.4 Forms delivered in electronic form — We prefer that all forms and exhibits required to be delivered to the securities regulatory authority under the Instrument be delivered in electronic format by e-mail. Each securities regulatory authority will publish a local notice setting out the e-mail address or addresses to which the forms are to be sent.

3.5 Confidentiality of information — The forms delivered to the securities regulatory authority by a registrant, clearing agency and matching service utility under the Instrument will be treated as confidential by us, subject to the applicable provisions of the freedom of information and protection of privacy legislation adopted by each province and territory. We are of the view that the forms contain intimate financial, commercial and technical information and that the interests of the providers of the information in non-disclosure outweigh the desirability of making such information publicly available. However, we may share the information with SROs and may publicly release aggregate industry-wide matching statistics on equity and debt DAP/RAP trading in the Canadian markets.

PART 4 REQUIREMENTS FOR MATCHING SERVICE UTILITIES

4.1 Matching service utility —

- (1) Part 6 of the Instrument sets out reporting, systems capacity, and other requirements of a matching service utility. The term *matching service utility* expressly excludes a clearing agency. A matching service utility would be any entity that provides the services of a post-execution centralized matching facility for trade-matching parties. It may use technology to match in real-time trade data elements throughout a trade's processing lifecycle. A matching service utility would not include a registered dealer who offers "local" matching services to its institutional investor-clients.
- (2) A matching service utility would be viewed by us as an important infrastructure system involved in the clearing and settlement of securities transactions. We believe that, while a matching service utility operating in Canada would largely enhance operational efficiency in the capital markets, it would raise certain regulatory concerns. Comparing and matching trade data are complex processes that are inextricably linked to the clearance and settlement process. A matching service utility concentrates processing risk in the entity that performs matching instead of dispersing that risk more to the dealers and their institutional investor-clients. Accordingly, we believe that the breakdown of a matching service utility's ability to accurately verify and match trade information from multiple market participants involving large numbers of securities transactions and sums of money could have adverse consequences for the efficiency of the Canadian securities clearing and settlement system. The requirements of the Instrument applicable to a matching service utility are intended to address these risks.

4.2 Initial information reporting requirements for a matching service utility — Sections 6.1(1) and 10.2(4) of the Instrument require any person or company that carries on or intends to carry on business as a matching service utility to deliver Form 24-101F3 to the securities regulatory authority. We will review Form 24-101F3 to determine whether the person or company that delivered the form is an appropriate person or company to act as a matching service utility for the Canadian capital markets. We will consider a number of factors when reviewing the form, including:

- (a) the performance capability, standards and procedures for the transmission, processing and distribution of details of trades executed on behalf of institutional investors;
- (b) whether market participants generally may obtain access to the facilities and services of the matching service utility on fair and reasonable terms;
- (c) personnel qualifications;
- (d) whether the matching service utility has sufficient financial resources for the proper performance of its functions;
- (e) the existence of, and interoperability arrangements with, another entity performing a similar function for the same type of security; and
- (f) the systems report referred to in section 6.5(b) of the Instrument.

4.3 Change to significant information — Under section 6.2 of the Instrument, a matching service utility is required to deliver to the securities regulatory authority an amendment to the information provided in Form 24-101F3 at least 45 days before implementing a significant change involving a matter set out in Form 24-101F3. In our view, a significant change includes a change to the information contained in the General Information items 1-10 and Exhibits A, B, E, G, I, J, O, P and Q of Form 24-101F3.

4.4 Ongoing information reporting and other requirements applicable to a matching service utility —

- (1) Ongoing quarterly information reporting requirements will allow us to monitor a matching service utility's operational performance and management of risk, the progress of interoperability in the market, and any negative impact on access to the markets. A matching service utility will also provide trade matching data (e.g., number of trades matched on T) and other information to us so that we can monitor industry compliance.
- (2) Completed forms delivered by a matching service utility will provide useful information on whether it is:
 - (a) developing fair and reasonable linkages between its systems and the systems of any other matching service utility in Canada that, at a minimum, allow parties to executed trades that are processed through the systems of both matching service utilities to communicate through appropriate, effective interfaces;

- (b) negotiating with other matching service utilities in Canada fair and reasonable charges and terms of payment for the use of interface services with respect to the sharing of trade and account information; and
- (c) not unreasonably charging more for use of its facilities and services when one or more counterparties to trades are customers of other matching service utilities than the matching service utility would normally charge its customers for use of its facilities and services.

4.5 Capacity, integrity and security system requirements —

- (1) The activities in section 6.5(a) of the Instrument must be carried out at least once a year. We would expect these activities to be carried out even more frequently if there is a significant change in trading volumes that necessitates that these functions be carried out more frequently in order to ensure that the matching service utility can appropriately service its clients.
- (2) The independent review contemplated by section 6.5(b) of the Instrument should be performed by competent and independent audit personnel, in accordance with generally accepted auditing standards. Depending on the circumstances, we would consider accepting a review performed and written report delivered pursuant to similar requirements of a foreign regulator to satisfy the requirements of this section. A matching service utility that wants to advocate for that result must submit a request for discretionary relief.
- (3) The notification of a material systems failure under section 6.5(c) of the Instrument should be provided promptly from the time the incident was identified as being material and should include the date, cause and duration of the interruption and its general impact on users or subscribers. We consider promptly to mean within one hour from the time the incident was identified as being material. Material systems failures include serious incidents that result in the interruption of the matching of trades for more than thirty minutes during normal business hours.

PART 5 TRADE SETTLEMENT

- 5.1 **Trade settlement by dealer** — Section 7.1 of the Instrument is intended to support and strengthen the general settlement cycle rules of the SROs and marketplaces. Current SRO and marketplace rules mandate a standard T+3 settlement cycle period for most transactions in equity and long term debt securities.¹¹ If a dealer is not a participant of a clearing agency, the dealer's policies and procedures to facilitate the settlement of a trade should be combined with the clearing arrangements that it has with any other dealer acting as carrying or clearing broker for the dealer.

PART 6 REQUIREMENTS OF SELF-REGULATORY ORGANIZATIONS AND OTHERS

- 6.1 **Standardized documentation** — Without limiting the generality of section 8.2 of the Instrument, an SRO may require its members to use, or recommend that they use, a standardized form of trade-matching agreement or trade-matching statement prepared or approved by the SRO, and may negotiate on behalf of its members with other trade-matching parties and industry associations to agree on the standardized form of trade-matching agreement or trade-matching statement to be used by all relevant sectors in the industry (dealers, buy-side managers and custodians).

PART 7 TRANSITION

- 7.1 **Transitional dates and percentages** — The following table summarizes the coming-into-force and transitional provisions of Part 10 of the Instrument for most DAP/RAP trades governed by this Instrument. For DAP/RAP trades that result from an order to buy or sell securities received from an institutional investor whose investment decisions are usually made in and communicated from a geographical region outside of the western hemisphere, the same table can be read to apply to such trades except that references in the second column (matching deadline) to "T+1" and "T" should be read as references to "T+2" and "T+1" respectively.

¹¹ See, for example, IDA Regulation 800.27 and TSX Rule 5-103(1).

For DAP/RAP trades executed:	Matching deadline for trades executed anytime on T (Part 3 of Instrument)	Percentage trigger of DAP/RAP trades for registrant exception reporting (Part 4 of Instrument)	Periods in which: - exception reporting must be made (Part 4 of Instrument) - documentation must be in place (Sections 3.2 and 3.4 of Instrument)
after March 31, 2007 but before October 1, 2007	12:00 p.m. (noon) on T+1	N/A ¹²	Not required
after September 30, 2007 but before January 1, 2008	12:00 p.m. (noon) on T+1	Less than 80% matched by deadline	Required
after December 31, 2007 but before July 1, 2008	12:00 p.m. (noon) on T+1	Less than 90% matched by deadline	Required
after June 30, 2008 but before January 1, 2009	11:59 p.m. on T	Less than 70% matched by deadline	Required
after December 31, 2008 but before July 1, 2009	11:59 p.m. on T	Less than 80% matched by deadline	Required
after June 30, 2009, but before January 1, 2010	11:59 p.m. on T	Less than 90% matched by deadline	Required
after December 31, 2009	11:59 p.m. on T	Less than 95% matched by deadline	Required

¹² Although exception reporting is not required during this period (see next column), we recommend that registrants consider applying a 70% threshold for internal measurement purposes in anticipation of reporting commencing on October 1, 2007.