

## CSA Notice of Consultation

**Draft Regulation to amend Regulation 24-101 respecting Institutional Trade Matching and Settlement****Draft Amendments to Policy Statement to Regulation 24-101 respecting Institutional Trade Matching and Settlement**

December 15, 2022

**Part I. Introduction**

The Canadian Securities Administrators (the **CSA** or **we**) are publishing for comment Draft *Regulation to amend Regulation 24-101 respecting Institutional Trade Matching and Settlement* (**Regulation 24-101** or **the Regulation**) and Draft Amendments to *Policy Statement to Regulation 24-101 respecting Institutional Trade Matching and Settlement* (**Policy Statement 24-101** or **the Policy Statement**). Collectively, the Draft Regulation to amend the Regulation (**Draft Regulation**) and the Draft Amendments to the Policy Statement will be referred to as the **Draft Revisions**.

Some provisions of the Draft Revisions amend the Regulation and the Policy Statement in anticipation of shortening the standard settlement cycle for equity and long-term debt market trades in Canada from two days after the date of a trade (**T+2**) to one day after the date of a trade (**T+1**). The move to a T+1 settlement cycle is expected to occur in 2024, at the same time as the markets in the United States move to a T+1 settlement cycle.

The Draft Revisions would also repeal the exception reporting requirements in Part 4 of Regulation 24-101, including the requirement to file Form 24-101F1 *Registered Firm Exception Reporting of DAP/RAP Trade Reporting and Matching* (**Form 24-101F1**) and make related changes to Policy Statement 24-101. Other Draft Revisions are more housekeeping in nature as they are intended to clarify and update existing requirements. The Draft Revisions will be available on the websites of CSA jurisdictions, including:

[www.lautorite.qc.ca](http://www.lautorite.qc.ca)

[www.asc.ca](http://www.asc.ca)

[www.bcsc.bc.ca](http://www.bcsc.bc.ca)

<https://nssc.novascotia.ca>

<https://fcnb.ca>

[www.osc.gov.on.ca](http://www.osc.gov.on.ca)

[www.fcaa.gov.sk.ca](http://www.fcaa.gov.sk.ca)

[www.mbsecurities.ca](http://www.mbsecurities.ca)

**We are publishing this Notice and the Draft Revisions for comment for 90 days. The comment period will expire March 17, 2023. See below under “Comment process” in Part V.**

**Part II. Purpose of Draft Revisions****1. Background – History of Regulation 24-101**

Regulation 24-101 came into force in 2007 and was intended to encourage more efficient and timely pre-settlement confirmation, affirmation, trade allocation and settlement instructions processes for institutional trades in Canada. This process is known as institutional trade matching (**ITM**).

Registered dealers and advisers trading on a DAP/RAP<sup>1</sup> basis for or with an institutional investor must have ITM policies and procedures designed to match a DAP/RAP trade as soon as practical after the trade is executed, but currently by noon on T+1 (**ITM deadline**). In addition, registered firms must complete and file a Form 24-101F1 for every calendar quarter where they do not meet the ITM threshold of matching 90 percent of trades by value and volume before the ITM deadline (**Exception Reporting Requirement**).<sup>2</sup> We note that this requirement is currently subject to a moratorium, discussed below.

The Regulation also requires clearing agencies (in particular, CDS Clearing and Depository Services Inc.) and matching service utilities to submit quarterly data on the matching of institutional equity and debt trades of their participants or users.

For more background information on Regulation 24-101, including its history and regulatory objective, please see the Consultation Paper that was published with the 2016 Notice and Request for Comment.<sup>3</sup>

## 2. Migration to T+1 settlement cycle

The Canadian securities industry is preparing for the migration to a standard T+1 settlement cycle in 2024 at the same time as the industry in the United States is moving to T+1.<sup>4</sup> While Regulation 24-101 does not expressly mandate a T+2 settlement cycle, and would not currently prevent the T+1 migration, there are a few provisions that require revision to facilitate the move to a T+1 settlement cycle and promote uniformity of settlement times across the industry.

We are therefore proposing to repeal “T+2” in the Regulation’s definitions section, and to amend subsections 3.1(1) and 3.3(1) of Part 3 Trade Matching Requirements to require registered dealers and registered advisers to have policies and procedures in place designed to achieve institutional trade matching by **9 p.m. Eastern Time** on the date of a trade (**T**), as opposed to the current requirement of 12 p.m. (noon) Eastern Time on T+1. We are also proposing amendments to Form 24-101F2 *Clearing Agency Quarterly Operations Report of Institutional Trade Reporting and Matching* and Form 24-101F5 *Matching Service Utility Quarterly Operations Report of Institutional Trade Reporting and Matching* that would change the ITM data reporting requirements to **T at 12 p.m., T at 9 p.m., T+1 at 12 p.m., T+1 at 3 p.m., T+1 at 11:59 p.m., and after T+1**. These amendments are intended not only to support the upcoming move to settlement on T+1, but also the potential move to settlement on T.<sup>5</sup>

For a successful migration to T+1 settlement, registered firms and other capital market stakeholders will need to review and change, as required, their current clearing and settlement procedures and internal operations and processes. In addition, marketplaces and clearing agencies may need to update various rules and procedures that specifically mandate a particular settlement cycle, that are keyed to the settlement date and require pre-settlement actions, or that generally facilitate the clearance and settlement of trades.

## 3. Repealing the Exception Reporting Requirement

We are proposing to repeal the Exception Reporting Requirement in Part 4 of the Regulation. This change will codify and replace the current reporting moratorium provided by blanket orders and a local rule in Ontario.

## 4. Other amendments to update and clarify Regulation 24-101

While our primary focus is to support the move to T+1 and reduce regulatory burden by eliminating the Exception Reporting Requirement, we have also proposed amendments to update and clarify Regulation 24-101.

## Part III. Summary of the Draft Revisions

Section 1 of this Part explains our Draft Revisions in anticipation of the transition to a T+1 settlement cycle, including our proposal to amend the ITM deadline from noon on T+1 to 9 p.m. on T. Section 2 of this Part explains our Draft Revisions relating to the repeal of the Exception Reporting Requirement. Section 3 describes the modernizing and

<sup>1</sup> See subsections 3.1(1) and 3.3(1) of the Regulation. A DAP/RAP trade is a trade in a security executed for a client 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 completed on behalf of the client by a custodian other than the dealer that executed the trade. See the definition “DAP/RAP trade” in section 1.1 of the Regulation.

<sup>2</sup> See section 4.1 of the Regulation.

<sup>3</sup> See: <https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilieres/24-101/2016-08-18/2016aout18-24-101-Avis-ACVM-en.pdf>, specifically <https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilieres/24-101/2016-08-18/2016aout18-24-402-Doc-consul-en.pdf>.

<sup>4</sup> For more information about the US move to T+1 please see: <https://www.dtcc.com/ust1>. For more information about Canada’s move to T+1 please see: <http://ccma-acmc.ca/en/t1-resources/>.

<sup>5</sup> The SEC has indicated in its T+1 rule proposals that it would like industry to begin considering and preparing for a move to a settlement date of T: <https://www.sec.gov/news/press-release/2022-2.1>

clarifying amendments to Regulation 24-101 including Form 24-101F2 and Form 24-101F5. Section 4 describes the Draft Amendments to the Policy Statement.

We welcome comments from stakeholders on all aspects of these amendments.

## **1. Draft Revisions as a result of T+1 migration**

### **a) References to “T+2”**

Regulation 24-101 contains a number of references to T+2. They can be found in the definitions section of the Regulation (section 1.1), Forms 24-101F2 and F5, and Part 5 of the Policy Statement. We propose to remove these references or replace them with “T+1” as applicable.

### **b) Amending the ITM deadline**

We are proposing to amend the ITM deadline from noon on T+1 to 9 p.m. on T. As noted above, in February 2022 the U.S. Securities and Exchange Commission (**SEC**) published for comment a number of proposed rule changes mandating a move to T+1 settlement. While the U.S. rule changes are not yet final at the time of drafting this Notice, and certain aspects – including their implementation date – may be adjusted in response to industry feedback, there appears to be little doubt that the United States financial sector will move to T+1 settlement.

Given the close ties between the Canadian and American markets, in particular the large number of inter-listed securities, in our view it is critical that CSA jurisdictions move to T+1 in concert with the U.S.

It is also our view that the current ITM deadline is no longer appropriate in a standard T+1 settlement environment. Permitting matching to occur until noon on T+1 leaves insufficient time to resolve issues with trade processing (technological and otherwise) and avoid failed trades. For this reason, we have proposed an ITM matching deadline of 9 p.m. on T. This deadline reflects input from industry, including the Canadian Capital Markets Association, which has struck several T+1 working groups in response to the SEC rule proposals.<sup>6</sup>

We welcome stakeholder feedback on whether 9 p.m. is an appropriate ITM deadline.

## **2. Repealing the Exception Reporting Requirement**

In 2020, the CSA provided a three-year moratorium on the applicability of the Exception Reporting Requirement.<sup>7</sup> Specifically, registered firms are not required to deliver Form 24-101F1 to the CSA for so long as the moratorium is in effect, from July 1, 2020 to July 1, 2023.

Under the Exception Reporting Requirement, registered firms are required to deliver Form 24-101F1 to the CSA if less than 90% of trades executed by or for the registered firm during the quarter matched within the time required by Regulation 24-101. Form 24-101F1 requires registered firms, among other things, to explain why they did not meet the exception reporting thresholds and the steps they have taken to address the delay.<sup>8</sup>

CSA Staff have had discussions with stakeholders who confirmed that the Exception Reporting Requirement is burdensome and has limited utility. CSA Staff agree with these comments and have identified the revocation of the Exception Reporting Requirement as a means of permanently removing unnecessary regulatory burden. Given that the applicable information can be obtained from clearing agencies and matching service utilities, CSA Staff are of the view that the Exception Reporting Requirement no longer meaningfully contributes to the CSA's oversight.

Our Draft Regulation would permanently repeal the Exception Reporting Requirement. We note, however, that the amendment would not relieve registered firms from complying with other requirements in Regulation 24-101 such as

---

<sup>6</sup> The proposed deadline also reflects the timing constraints imposed by the U.S. T+1 conversion date, which will likely not allow for a second CSA comment period. For this reason we have opted to propose what we understand to be the earliest viable deadline, on the basis that any public comments on the Draft Revisions that the deadline is too early could be accommodated by moving the deadline to a later time in the final amendments to *Regulation 24-102 respecting Clearing Agency Requirements*. By contrast, industry feedback requesting an earlier deadline would likely require a material change to the Draft Revisions, triggering a second comment period that would jeopardize our ability to align the Canadian and American changeovers to T+1.

<sup>7</sup> In Ontario, the Minister approved a local rule providing for the three-year moratorium. The other Canadian CSA jurisdictions imposed a three-year moratorium through blanket orders.

<sup>8</sup> For more information about the three-year moratorium relating to the Exception Reporting Requirement, please see: <https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilieres/0-avis-acvm-staff/2020/2020aout06-11-342-avis-acvm-en.pdf>

establishing, maintaining, and enforcing policies and procedures to achieve the matching threshold for institutional trades.

CSA Staff recognize that the reporting moratorium is set to expire prior to the proposed implementation date for the Draft Regulation. We anticipate that the moratorium will be extended in all CSA jurisdictions until such time as the proposed amendment, if approved, comes into effect.

### **3. Other draft amendments to Regulation 24-101**

While our primary focus is to support the move to T+1 and reduce regulatory burden by eliminating the Exception Reporting Requirement, we have also proposed the following amendments to update and clarify Regulation 24-101:

- Adding a reference to cyber-resilience to the system requirements in s. 6.5a(iv) of Part 6 to reflect the increasing importance of cybersecurity to the core system requirements of matching service utilities;
- Updating the instructions for Exhibit N of Form F3 to remove the reference to "during normal business hours"; and
- Housekeeping amendments in the form of changing references to months in the various Form instructions from "MMM" to "MM" and correcting minor typographical punctuation errors.

### **4. Draft amendments to Policy Statement 24-101**

In support of the Draft Regulation, we propose the following amendments to Policy Statement 24-101:

- Changing the references to the time of trade matching deadlines in s. 2.2;
- Clarifying the language of s. 2.3(1)(c) by changing "The Regulation does not provide" to "The Regulation does not prescribe";
- Removing the guidance associated with the Exception Reporting Requirement in Part 3;
- Updating the guidance on capacity, integrity, and security system requirements by removing the words "during normal business hours" from s. 4.5(3);
- Changing a reference to a T+2 settlement system to refer instead to a T+1 settlement system in s. 5.1;
- Updating references to IIROC Rules in the footnotes; and
- Housekeeping amendments such as minor typographical changes and updating the table of contents.

## **Part IV. Other matters**

### **1. Authority for Regulation**

In those jurisdictions in which the Draft Regulation will be adopted, securities legislation provides the securities regulatory authority with authority in respect of the subject matter of the Draft Regulation.

### **2. Alternatives considered to the Draft Revisions**

The alternative to the Draft Revisions would be not to proceed with making amendments to the Regulation or changes to the Policy Statement to facilitate the move to T+1 settlement or to repeal the Exception Reporting Requirement, or to clarify and update provisions in the Regulation that are unclear or outdated. Not proceeding with the T+1-related Draft Revisions would be inconsistent with the desire to facilitate the move to T+1 and could lead to confusion in the markets with respect to settlement that could put investors at risk.

In addition, without the draft amendments related to repealing the Exception Reporting Requirement, registered firms would be required to deliver Form 24-101F1, a form that the CSA has determined no longer meaningfully contributes to the CSA's daily oversight, resulting in undue regulatory burden.

### **3. Unpublished materials**

In proposing revisions to the Regulation and the Policy Statement, we have not relied on any significant unpublished study, report, or other material.

### **4. Effective date for Draft Revisions**

If the Draft Revisions are made following the comment process, all the Draft Revisions will be brought into force at a date to be determined, to align with the transition in the United States.

## Part V. Request for Comments

### 1. Questions

We welcome your comments on the Draft Revisions. In addition to any general comments you may have, we also invite comments on the following specific questions:

- a. In a T+1 settlement system, is an ITM deadline of 9 p.m. on T appropriate? Why or why not?
- b. Are the data reporting requirements in Form 24-101F2 *Clearing Agency Quarterly Operations Report of Institutional Trade Reporting and Matching* and Form 24-101F5 *Matching Service Utility Quarterly Operations Report of Institutional Trade Reporting and Matching* of T at 12 p.m., T at 9 p.m., T+1 at 12 p.m., T+1 at 3 p.m., T+1 at 11:59 p.m., and after T+1 appropriate in a T+1 settlement system? Why or why not?

### 2. Comment process

Please submit your comments in writing on or before **March 17, 2023**. Please address your submission to all of the CSA as follows:

British Columbia Securities Commission  
Alberta Securities Commission  
Financial and Consumer Affairs Authority of Saskatchewan  
Manitoba Securities Commission  
Ontario Securities Commission  
Autorité des marchés financiers  
Nova Scotia Securities Commission  
Financial and Consumer Services Commission (New Brunswick)  
Office of the Attorney General, Prince Edward Island  
Securities Commission of Newfoundland and Labrador  
Superintendent of Securities, Yukon  
Superintendent of Securities, Northwest Territories  
Superintendent of Securities, Nunavut

Please deliver your comments only to the addresses that follow. Your comments will be forwarded to the remaining CSA member jurisdictions.

M<sup>e</sup> Philippe Lebel  
Corporate Secretary and Executive Director, Legal Affairs  
Autorité des marchés financiers  
Place de la Cité, tour Cominar  
2640, boulevard Laurier, bureau 400  
Québec (Québec) G1V 5C1  
Fax: 514 864-6381  
[E-mail: consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

The Secretary  
Ontario Securities Commission  
20 Queen Street West, 22nd Floor  
Toronto, Ontario M5H 3S8  
Fax: 416 593-2318  
[E-mail: comments@osc.gov.on.ca](mailto:comments@osc.gov.on.ca)

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of the written comments received during the comment period. All comments received will be posted on the websites of each of the Alberta Securities Commission at [www.albertasecurities.com](http://www.albertasecurities.com), the Autorité des marchés financiers at [www.lautorite.qc.ca](http://www.lautorite.qc.ca) and the Ontario Securities Commission at [www.osc.ca](http://www.osc.ca). Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

Questions with respect to this Notice and the Draft Revisions may be referred to:

Dominique Martin,  
Senior Director, Market Activities and Derivatives  
Autorité des marchés financiers  
Tel: 514 395-0337, ext. 4351  
Toll free: 1 877 525-0337  
[Email: dominique.martin@lautorite.qc.ca](mailto:dominique.martin@lautorite.qc.ca)

Francis Coche  
Derivative Products Analyst - Oversight of Clearing Activities  
Market Activities and Derivatives  
Autorité des marchés financiers  
Tel: 514 395-0337, ext. 4343  
Toll free: 1 877 525-0337  
[Email: Francis.Coche@lautorite.qc.ca](mailto:Francis.Coche@lautorite.qc.ca)

Aaron Ferguson  
Manager, Market Regulation  
Ontario Securities Commission  
Tel: 416 593-3676  
[Email: aferguson@osc.gov.on.ca](mailto:aferguson@osc.gov.on.ca)

Stephanie Wakefield  
Senior Legal Counsel, Market Regulation  
Ontario Securities Commission  
Tel: 647 401-8397  
[Email: swakefield@osc.gov.on.ca](mailto:swakefield@osc.gov.on.ca)

Jarrold Smith  
Senior Accountant, Market Regulation  
Ontario Securities Commission  
Tel: 647 984-9254  
[Email: jsmith@osc.gov.on.ca](mailto:jsmith@osc.gov.on.ca)

Harvey Steblyk  
Senior Legal Counsel, Market Regulation  
Alberta Securities Commission  
Tel: 403 297-2468  
[Email: harvey.steblyk@asc.ca](mailto:harvey.steblyk@asc.ca)

Rina Jaswal  
Senior Legal Counsel, Capital Markets Regulation  
British Columbia Securities Commission  
Tel: 604 899-6683  
[Email: rjaswal@bcsc.bc.ca](mailto:rjaswal@bcsc.bc.ca)

Paula White  
Deputy Director, Compliance and Oversight  
Manitoba Securities Commission  
Tel: 204 945-5195  
[Email: paula.white@gov.mb.ca](mailto:paula.white@gov.mb.ca)

Liz Kutarna  
Director, Capital Markets, Securities Division  
Financial and Consumer Affairs Authority of Saskatchewan  
Tel: 306 787-5871  
[Email: liz.kutarna@gov.sk.ca](mailto:liz.kutarna@gov.sk.ca)

David Shore  
Senior Legal Counsel  
Financial and Consumer Services Commission (New Brunswick)  
Tel: 506 658-3038  
[Email: david.shore@fcnb.ca](mailto:david.shore@fcnb.ca)