



INVESTMENT INDUSTRY ASSOCIATION OF CANADA  
ASSOCIATION CANADIENNE DU COMMERCE DES VALEURS MOBILIÈRES

## **Institutional Trade Matching and Settlement Rule (National Instrument 24-101)**

### **Questions and Answers**

*The Canadian Securities Administrators (CSA) released the final Institutional Trade Matching and Settlement rule, National Instrument (NI) 24-101, on January 12. The following questions and answers and attached appendices have been prepared to help members comply with the new rule. To remain current on further amendments, watch for notification of updates in the Investment Industry Association's weekly e-bulletin.*

*The document is not intended to replace the complete notice and companion policy, which are available at [http://www.osc.gov.on.ca/Regulation/Rulemaking/Current/Part2/csa\\_20070112\\_24-101\\_ni-trade-match.pdf](http://www.osc.gov.on.ca/Regulation/Rulemaking/Current/Part2/csa_20070112_24-101_ni-trade-match.pdf).*

#### **PURPOSE AND APPLICATION OF NEW RULE**

##### **1. What is the purpose of the new Institutional Trade Matching and Settlement rule?**

The purpose of the new rule is to improve institutional trade processing and settlement efficiency; its ultimate goal is to reduce operational, market and credit risks and costs associated with unmatched trades.

##### **2. What are the key provisions of the Institutional Trade Matching and Settlement rule?**

The rule requires trade-matching parties, i.e., brokers, custodians and investment managers or institutional clients, to:

- Establish, maintain and enforce policies and procedures to:
  - a) ensure that delivery or receipt against payment (DAP/RAP) trades that typically settle one, two or three days following trade date are matched as soon as practical after the trade is executed and no later than midnight ET on trade date or, in certain cases, the day following trade date and
  - b) facilitate settlement of trades by the standard settlement date
- Only open an account or, for existing clients, only execute a trade, if each trade-matching party has entered into a trade-matching agreement with, or provided a trade-matching statement to each other
- Send regulators an exception report for any calendar quarter when the minimum transitional or final matching targets have not been met.

### 3. When is the new rule in effect?

The requirements for same-day trade matching are being phased in over three years. Starting April 1, 2007, brokers/dealers must have policies and procedures in place to ensure that responsibilities are clearly articulated and timelines are defined for everyone involved in the trade-matching process. *See Appendix 1 for the matching targets and exception reporting implementation timeline.*

### 4. What DAP/RAP trades are included in the new rule?

Included in the rule are DAP/RAP trades executed for client trading accounts, which are traded through 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. Some exceptions apply:

- trades in an issuer's security that has not been issued previously or for which a prospectus must be given to the purchaser, i.e., new issues
- trades in a security to the security's issuer
- trades related to a take-over bid, issuer bid, amalgamation, merger, reorganization, arrangement or similar transaction or under the terms of conversion, exchange or exercise of a previously issued security
- securities lending, repurchase, reverse repurchase or similar financing transactions
- mutual fund trades, i.e., trades in the units of mutual funds (however, mutual fund portfolio transactions are included)
- trades settled outside Canada
- options, futures contracts or similar derivatives trades
- trades in a negotiable promissory note, commercial paper or other short-term debt obligation that typically settles in Canada on trade date.

## FIRMS AFFECTED BY THE RULE

### 5. Does the rule apply to my firm?

The rule applies to dealers, investment managers or institutional investors and custodians that are party to DAP/RAP trades, specifically,

1) *Registered dealers that are executing or clearing trades*, including:

- Investment counsel/portfolio managers (ICPMs)
- Limited market dealers that trade on a marketplace with rules setting standard settlement periods
- Alternative trading systems (ATs) that are involved in the post-trade settlement process.

Mutual fund dealers and ATs that only bring together or match trade orders for trade execution purposes are not included.

2) *Registered dealers that are acting in a custodial role* (e.g., prime brokerage), even if there is no direct contractual portfolio asset custodian relationship with the institutional investor.

3) *Registered advisors or buy-side managers acting for an institutional investor* or on behalf of multiple underlying institutional client accounts and making decisions regarding

what securities to trade and how to allocate assets among client accounts.

4) *Institutional investors in the absence of a registered advisor* Institutional investors are clients to whom a dealer has granted DAP/RAP privileges. Unlike the Investment Dealers Association of Canada (IDA) definition of institutional customer, institutional investors for the purposes of the Institutional Trade Processing and Settlement rule includes individuals who otherwise would be considered retail investors, but have DAP/RAP accounts with a dealer.

5) *Custodians* of the institutional investor settling the trade, including dealer and financial institution/non-dealer custodians.

## **6. Does the rule apply to foreign counterparties?**

The rule applies to foreign-based institutional investors and custodians holding Canadian portfolio assets through a local Canadian sub-custodian. It also applies to foreign global custodians or international central securities depositories that are members of the Canadian Depository for Securities Limited (CDS) or directly involved in settling trades in Canada.

Foreign-based trade-matching parties that operate in the same time zones as Canada and can reasonably match trades by the end of trade date are subject to the rule. Institutional investors whose investment decisions are made or communicated from outside the Western Hemisphere, have until midnight on the day after trade date to meet the matching requirements. However, they must meet other rule requirements, including being part of a trade-matching agreement and issuing a trade-matching statement. Further discussion is expected on this issue.

## **7. What are the implications of the rule for the typical broker?**

- Broker/dealers that have not already made or planned for investments in process and technology improvements may have to change from a batch-oriented system to processing several batches throughout the day or on a real-time basis.
- Broker/dealers using carrying brokers or outside service providers for trade processing will need to discuss changes or requirements with their providers or other solution vendors.
- Changes may need to be made to behaviours in the broker, custodian and investment manager industries and some firms may consider a change to hours of work.
- Facilities for the repair and resending of unmatched trades within the timeframes proposed may be needed, which may require bilateral or multilateral discussions.

## **8. Will the rule be embodied in an IDA rule?**

It is not certain. While the issue will be considered further, requirements under a CSA or a self-regulatory organization rule essentially will be the same.

## **PREPARING FOR COMPLIANCE WITH THE NEW RULE**

## **9. What should my firm do to get ready?**

The specific steps a dealer should follow vary depending on the firm's state of current trade-date matching readiness, whether they are an introducing or carrying broker and whether they are acting only as a dealer or also as a custodian.

Introducing brokers should first talk to their carrying broker. The following to-do list may be helpful for other brokers:

1. Review your firm's current state and systems capabilities and procedures, and identify what may prevent your firm from achieving the deadlines (e.g., are fund accounting and trade-matching processes linked rather than separate?). Identify what system and procedural changes are easily achievable in the short term to meet the earliest matching targets (*See Appendix 1 – Deadlines*).
2. Attend one of four CCMA information sessions scheduled for March (visit [www.ccma-acmc.ca](http://www.ccma-acmc.ca)) to ask questions first hand and consider joining a committee for ongoing information updates. IIAC may also set up information conference calls if there is a demand from members for them.
3. By April 1, develop required policies and procedures to achieve targets; recognize that these policies and procedures may need to change when systems or procedural changes are made to meet the increasingly stringent matching targets. Incorporate the policies and procedures into regulatory compliance and risk management programs.
4. If your firm or your outsourced supplier's systems and/or processes/procedures do not allow your firm to achieve the final deadlines, identify possible service providers or alternative solutions, including, if appropriate, the use of block settlement trades (where brokers need match only against a few custodians rather than at all the individual investor levels), local matching and matching service utilities. MSUs are facilities offering systems to match and deliver trades to CDS.
5. Meet with vendors or service providers that can offer guidance and services, including regarding exception reporting if this will not be done inhouse. The CCMA's information sessions will include vendor and service provider participation; the CCMA or IIAC may arrange other venues where trade-matching parties can meet vendors.
6. Develop a trade-matching statement or agreement or adopt an industry model trade-matching statement.
7. Put in place a monitoring process to assess counterparties' adherence to the best practices and timelines.
8. Plan for an exception reporting capability in case targets are not met and exception reporting is required.
9. Make and test any systems and procedural changes needed.
10. Plan communications with counterparties.
11. Negotiate trade-matching agreements or confirm trade-matching statements.
12. Go live, ideally no later than October 1, 2007.

## **POLICIES AND PROCEDURES**

### **10. What will be considered acceptable policies and procedures?**

The rule does not specify what is an acceptable policy or procedure. The rule's companion policy, which offers guidance rather than requirements, provides a list of features to consider:

- Roles and responsibilities for completing tasks in the trade-matching and correction process, including accountability for cooperating with other trade-matching parties to investigate, adjust and communicate trade details to ensure trades can be matched on time
- Timelines for completing steps in the trade-matching process
- Minimum best practices and standards to be followed
- The monitoring process to be used.

### **11. What are examples of responsibilities that could be included in the policy?**

The companion policy gives the following examples of responsibilities for the dealer executing or clearing the trade:

- How and when the notice of execution is to be given to the institutional investor or its advisor, including the format (e.g., electronic) and content (e.g., required data elements)
- How and when trade details are to be entered into the dealer's internal and CDS's or a carrying broker's systems
- How and when the dealer is to correct or adjust trade details entered into internal or third-party systems.

From other trade-matching parties, brokers could see agreements or statements referencing how and when to notify the dealer of trade differences; how to resolve trade differences; and how to determine and communicate settlement details and account allocations to the dealers for the advisor or institutional investor.

### **12. What is meant by minimum best practices and standards?**

The companion policy refers to December 2003 CCMA best practices and standards that describe best practices as having two components:

- clearly defined statements of who does what by when, for example, the timelines for dealers to submit trade details to CDS.
- the data elements used for trade processing, e.g., buy/sell indicator, ISIN security identifier and settlement date.

The 2003 document is no longer available and, instead, the CCMA has posted general principles and data elements on [www.ccma-acmc.ca](http://www.ccma-acmc.ca). Since the development and adoption of best practices and procedures will be ongoing, to remain current on periodic amendments, visit [www.ccma-acmc.ca](http://www.ccma-acmc.ca) or watch for notification of updates through the IIAC's weekly e-letter.

## **TRADE-MATCHING AGREEMENT AND TRADE-MATCHING STATEMENT**

### **13. What is the difference between a trade-matching agreement and a trade-matching statement?**

*A trade-matching agreement* sets out the roles, responsibilities and terms under which trade-matching parties agree to establish, maintain and enforce policies and procedures to achieve matching. It may be a single agreement between trade-matching parties, a network of bilateral agreements or a multilateral agreement. Over time, trade-matching agreement wording may be incorporated into account-opening documentation or other contracts.

*A trade-matching statement* is a unilateral signed document of a trade-matching party confirming that it has established, maintains and enforces policies and procedures to achieve matching as soon as practical after a trade is executed. It may be made available to counterparties via mail, e-mail or a statement posted on a website. The statement must be signed by a full-time chair or vice-chair, president, chief executive officer, chief operating officer or senior vice-president in charge of operations and back-office functions.

**14. Who is responsible for ensuring that a trade-matching agreement or trade-matching statement is prepared?**

The onus is on dealers and advisors to obtain an agreement or statement from all counterparties. Most trade-matching parties are expected to use statements rather than agreements since statements can be issued without negotiation with counterparties.

**15. Is there a standard trade-matching agreement or trade-matching statement?**

There is no standard trade-matching agreement or statement at this time. However an SRO may require or recommend that its members use a standardized trade-matching agreement or statement prepared and/or approved by the SRO.

The CCMA is preparing a model or template statement that is expected to be one that can be used “as is” or tailored by trade-matching party. An SRO may issue an easy-to-tailor optional model or a mandatory dealer statement. The IIAC is working with the CCMA to finalize a streamlined statement. Further developments will be available through the CCMA and IIAC websites in the next few months.

**16. If trade-matching parties have their statements posted on their websites, does my firm need to obtain them?**

CSA guidance is not yet available on this point, however, a firm’s policies and procedures may include how the documentation requirement has been met, for example, listing a URL on a compliance checklist or filing a printed copy. The IIAC will be discussing with the CCMA the possibility of having a party administer a list of broker/dealers and other trade-matching counterparties with links to websites posting relevant documentation.

**17. Are separate trade-matching agreements or statements required for each account?**

A single trade-matching agreement or statement is sufficient for the general and sub-accounts of the registered advisor or buy-side manager.

**EXCEPTION REPORTING**

**18. When will an exception report be required?**

No reporting is required if matching requirements are met. Exception reporting is required if the matching targets in Appendix 1 are not achieved.

When an exception report is needed, it will have to be submitted within 45 days after the quarter. The first reportable period is October 1 through December 31. Firms that have not matched 80 per cent of trades within the timeline (i.e., noon on T+1) will need to file a report by mid-February 2008.

**19. What information will my firm need to capture to report exceptions?**

Dealers are expected to capture as a minimum:

- the date the trade is executed
- when data is provided to the investment manager
- when the investment manager agrees with the details
- when the broker enters the details in CDSX, or to a carrying broker or MSU for custodian matching.

## **20. Where can my firm get help in exception reporting?**

In addition to service providers and solution vendors, a number of organizations may provide help:

- Introducing brokers should talk to their carrying broker to discuss what reporting services may be offered.
- Dealers that are CDS participants are already receiving trade-matching reports, which will form a good basis for exception reporting. CDS will also continue to report monthly by customer identifier via CDS's Report Management System to all CDS participants currently doing institutional trade processing. This should help the participants (and through them, their introducing brokers) identify and correct problems before an exception report must be submitted. In addition, CDS will be required to deliver matching data to regulatory authorities no later than 30 days after the end of a calendar quarter.
- Dealers may also want to talk to a matching service utility. MSUs will also be required to deliver matching data to regulatory authorities no later than 30 days after the end of a calendar quarter. Although trade-matching parties are not required to use an MSU, the automation MSUs provide may help trade-matching parties comply with the new rule. Firms expected to offer MSU services in Canada include SS&C Solutions' FMCNet (<http://www.ssctech.com/product.asp?=52>) and Omgeo ([www.omgeo.com/canada](http://www.omgeo.com/canada) or <http://www.omgeo.com/canada/solutions.php>).

## **21. How can firms file a report if all the necessary information is not available from CDS?**

CDS will be making reporting changes before April 1 to enable the reporting of trades matched by noon on T+1. However, CDS cannot separate trades based on hemisphere in the case of foreign trade-matching parties because CDS does not receive information on where trades originate. CDS participants and other trade-matching parties may want to separately monitor these trades if they are expected to have a significant impact on the same-day matching rate. Trade-matching parties may request a separate CUID for such accounts to allow the break-out of acceptable and unacceptable T+1 matching.

Over the next few months, industry committees will work through detailed reporting issues that may result from incomplete information and suggest and/or develop solutions. More information will be made available on this through the CCMA and IIAC websites.

## **22. Is there a special format to follow for exception reports?**

A report format for trade-matching parties is included in the rule as Form 21-101F1. All reports are to be provided in electronic form to the e-mail address or addresses to be specified.

## **23. What needs to be included in an exception report?**

If a report is required, brokers will be expected to include information that is relevant to their firm's business. The companion policy says this may include:

- Problems with Notices of execution or reporting of trade details to CDS
- Problems with their clients and their or others' service providers
- Steps to inform/encourage clients to comply with the trade-matching agreement or statement
- Trade-matching parties or service providers that seem consistently not to be meeting matching deadlines or not to have policies and procedures designed to achieve matching
- Steps taken to resolve delays in reporting and matching, e.g., implementing a new system or procedure; meeting with a trade-matching party to determine what action should be taken; establishing new processes and timeline for their completion
- Reasons for having insufficient information to determine the percentages and plans to obtain the information.

Similarly, advisors may provide information on problems with allocations, with service providers, custodians and other trade-matching parties that seem to consistently not meet matching deadlines or have not established appropriate policies and procedures.

#### **24. Can my firm outsource exception reporting?**

Yes, firms can outsource aspects of their operations to others, including the gathering of trade-matching performance reporting. However, the registrant retains full legal and regulatory liability and accountability to the Canadian securities regulatory authorities for exception reporting requirements even when fulfilled by an outsourced service provider.

#### **25. Will exception reports be kept confidential?**

All forms delivered to the securities regulatory authority by a registrant, clearing agency and MSU will be treated as confidential, subject to the provisions of freedom of information and protection of privacy legislation in each province and territory.

### **COMPLIANCE**

#### **26. How do regulators expect registered dealers and advisors to monitor counterparties' compliance with policies and procedures?**

Dealers and advisors are expected to use reasonable efforts to monitor compliance and may report details of non-compliance in any exception reports they submit. "Reasonable efforts" will depend on the particular circumstances of the different parties. Examples of monitoring include:

1. CDS participants may review CDS reports to help with planning. CDS expects to provide reports monthly to participants after June 2007 and possibly as early as May 2007.
2. Introducing brokers may contact carrying brokers for assistance.
3. Others may identify systems or operational ways of assessing where and why delays are occurring, or whether specific trade-matching parties are consistently late.

To help promote compliance, the companion policy says dealers may impose penalty fees on poor performers or request a third-party to review or assess the party's policies and procedures.

#### **27. Does my firm have to monitor counterparties' compliance with the trade-matching agreement or statement?**

Dealers and advisors are asked to use reasonable efforts to monitor and enforce compliance with the terms and conditions of the agreement or statement. What is reasonable will be determined by the circumstances. If the firm has entered into a trade-matching agreement, the dealer may have some specified remedies against the client, e.g., suspend or terminate the relationship.

A registered dealer or advisor may accept a trade-matching statement signed by a senior executive officer without further investigation and rely on the statement for future trades, unless the dealer or advisor comes to know that any statements or facts in the statement are wrong.

A registrant may rely on a trade-matching party's representations that the trade-matching statement was provided to other trade-matching parties without further investigation.

**28. How will I know that my firm won't be blamed for another firm's problems?**

Brokers will only be held accountable for the notice of execution and reporting of trade details since these are within their control. Allocations are in the control of the investment manager/institutional investor and custodial verification is the responsibility of custodians. The CSA recognizes that there will be cases where responsibility may not be clear and expects trade-matching parties to work together to address problems.

**29. My firm processes "good till cancelled orders," which an institutional investor needs to have filled over several days to avoid market moves. How should this type of trade be captured to be compliant and not require my firm to send an exception report? Do I effectively have to force clients into day trading?**

The regulators do not want the new rule to change the manner in which trading choices are made and they are aware of this issue. They believe the answer depends on the way the agreement between dealer and client is structured. An answer will be posted once received from the CSA and following discussion with member firms.

**30. How will the CSA and SROs monitor compliance?**

The CSA and SROs will monitor compliance through a review of exception reports, field audits of particular registrants' exception reports, reviews of documentation requirements and compliance sweeps.

**31. What are the penalties for non-compliance?**

The rule does not set out penalties. The CSA plans to work with SROs and other regulators to ensure that standards and penalties are as consistent as possible and that appropriate means of correcting problems have been exhausted before penalties are applied. The CCMA will communicate any further developments.

## FURTHER DEVELOPMENTS

**32. Where can I go for information on further developments?**

For updates to this document, visit [www.iiac.ca](http://www.iiac.ca) (select Priority Issues, Institutional trade-date matching rule) or email [bamsden@iiac.ca](mailto:bamsden@iiac.ca) for the latest information. To remain current on periodic amendments, visit [www.ccma-acmc.ca](http://www.ccma-acmc.ca) or watch for notification of updates through the Investment Industry Association's weekly e-bulletin.

## Appendix 1

### TRADE-MATCHING DEADLINES

**Dates to remember:**

*April 1, 2007:* Policies and procedures to be in place.

*October 1, 2007:* Trade-matching agreements or trade-matching statements to be in place for all trades executed.

*February 14, 2008:* First exception report to be delivered if required – exception reports are due within 45 days after the end of a quarter.

<b>For DAP/RAP trades executed</b>	<b>Matching deadline<sup>1</sup></b>	<b>Exception reporting required<sup>2</sup></b>
April 1 to Sept. 30, 2007	noon ET on T+1	No
Oct. 1 to Dec. 31, 2007	noon ET on T+1	If less than 80% of trades are matched within deadline
Jan. 1 to June 30, 2008	noon ET on T+1	If less than 90% of trades are matched within deadline
July 1 to Dec. 31, 2008	11:59 p.m. ET on T <sup>3</sup>	If less than 70% of trades are matched within deadline
Jan. 1 to June 30, 2009	11:59 p.m. ET on T <sup>3</sup>	If less than 80% of trades are matched within deadline
July 1 to Dec. 31, 2009	11:59 p.m. ET on T <sup>3</sup>	If less than 90% of trades are matched within deadline
Jan. 1, 2010 and beyond	11:59 p.m. ET on T <sup>3</sup>	If less than 95% of trades are matched within deadline
<b>Notes:</b> 1. Regardless of the time a trade is executed on trade date. 2. Based on percentage of the total number <i>or</i> aggregate value of securities purchased or sold. 3. The matching deadline is midnight ET on T+1 for firms making investment decisions and providing instructions from outside the Western Hemisphere.		

## Appendix 2

### DEFINITIONS

**DAP/RAP trades:** Trades executed for a client trading account that permits settlement on a delivery or receipt against payment basis through 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. DAP/RAP trades, including “cash on delivery” (COD) accounts, whether settled by a non-dealer or dealer custodian, are generally included.

**Exception reporting:** Mandatory reporting to regulators by trade-matching parties that do not meet matching targets (*see Appendix 1.*) Reports to be filed 45 days after quarter end by trade-matching parties and 30 days after quarter-end by CDS and MSUs on all firms using their services.

**Institutional investor:** A client to whom a dealer has granted DAP/RAP privileges. Individuals who have DAP/RAP accounts with a dealer are subject to the trade-matching requirements. The definition of “institutional investors” differs from the IDA Policy 4 definition of “institutional customers”.

**Matching:** The process by which the details (sometimes called data elements) and settlement instructions of an executed DAP/RAP trade are:

- reported by the broker
- verified by the investment manager or institutional investor
- confirmed by the broker
- affirmed by the custodian or otherwise agreed to among the trade-matching parties and, if the process is not effected through the facilities of a clearing agency such as CDS, reported as matched details and settlement instructions to the clearing agency.

**Matching service utility (MSU):** A facility offering systems to match and deliver trades to CDS.

**Minimum best practices and standards:** Industry norms that market participants should strive to meet. For purposes of the rule, the CCMA's definition describes best practices as having two components:

- clearly defined statements of who does what by when, for example, the timelines for dealers to submit trade details to CDS.
- the data elements used for trade processing, e.g., buy/sell indicator, ISIN security identifier and settlement date.

Led by the CCMA, CCMA broker, investment manager and custodian subcommittees have agreed on:

- a common set of best practices or general principles ([http://www.ccma-acmc.ca/en/best\\_practices/general\\_principles.html](http://www.ccma-acmc.ca/en/best_practices/general_principles.html))
- standard data elements for trade-matching parties (<http://64.130.1.93/en/files/2007-01-Data%20Standards%20updated%20with%20Broker%20and%20Custodian%20comments.pdf>).

Since there may be further developments regarding best practices and procedures, visit [www.ccma-acmc.ca](http://www.ccma-acmc.ca) periodically or watch for notification of updates through the IIAC's weekly e-letter to remain current.

**Policies and procedures:** Documentation establishing a firm's requirements for meeting the trade-matching and settlement rule; includes roles and responsibilities; timelines for completing tasks in the trade-matching and correction process; minimum best practices and standards to be followed; and the monitoring process to be used.

**Data elements:** What the CCMA describes as the minimum trade information required by the different parties in the trade flow process; the use of common data elements promotes matching and avoids errors and delays from re-keying trade details.

**Trade-matching agreement:** A single agreement between trade-matching parties, a network of bilateral agreements or a multilateral agreement that sets out the roles and responsibilities of the trade-matching parties and the terms by which the counterparties agree to establish, maintain and enforce policies and procedures to achieve matching after a trade is executed. Over time, some trade-matching parties may incorporate trade-matching agreement wording into account-opening documentation or other contracts.

**Trade-matching parties:** IDA dealers, custodians (including parties acting in a custodial capacity) and investment advisors or institutional investors.

**Trade-matching statement:** A unilateral signed document of a trade-matching party confirming that it has established, maintains and enforces policies and procedures to achieve matching as soon as practical after a trade is executed. It may be made available to counterparties via mail, e-mail or a statement posted on a website. The statement must be signed by a senior executive officer, meaning a full-time chair or vice-chair, president, chief executive officer, chief operating officer or senior vice-president in charge of operations and back-office functions.

**T, T+1, T+2, T+3:** Standard industry settlement terms meaning settlement on trade date or the day, two days or three days following trade date.

## QS AND AS FROM MARCH 7 CCMA INFORMATION SESSION

### **4.a Will the rule be extended to credit default swaps, options and other over-the-counter (OTC) instruments?**

The Ontario Securities Commission (OSC) at a March 7 Canadian Capital Markets Association (CCMA) information session said that there was no intention to extend the rule to these instruments, although firms may find that applying the same policies and procedures developed to meet institutional trade-matching rules to OTCs and derivatives would be beneficial.

### **6.a Instead of having foreign counterparties sign a trade-matching agreement or provide a trade-matching statement referencing the rule, can firms simply have foreign institutional clients sign back a document acknowledging the timelines they are committing to try to meet or add a similar clause to client agreements?**

An OSC representative at a March 7 CCMA information session clarified that the form of trade-matching agreements and statements was deliberately not prescribed by the regulators so that firms could identify the format or formats of trade-matching agreement or statement that was most appropriate to their clientele. Firms choosing, for example, to use an industry model trade-matching statement for the majority of their client base are not prohibited from using a different approach for different client segments. The trade-matching statement from a foreign institutional client could be very simple.

### **7.a Why might hours of work have to change?**

At the March 7 CCMA information session, a custodian had noted a trend for greater mismatches late in the day between broker and investment manager – 60 per cent of allocations were still being received after 4:30 p.m. The increased mismatching could be the result of voluntary adherence to what is now recommended as a rule for a maximum \$50 million par value settlement size or situations caused by credit lines of brokers that may limit settlement size.

Also, the custodian noted that the change in “end-of-day” from 7:30 p.m. (current Canadian Depository for Securities (CDS) close) to 11:59 p.m. was not a straightforward four-and-a-half-hour extension as virtually all firms brought systems down for back-ups for some period during this time frame. This area may require further work for all parties – the CCMA has been requested to discuss this further.

### **9.a Where else can my firm look for help in preparing for compliance?**

An OSC representative at a March 7 CCMA information session said that the regulators will be preparing and posting frequently asked questions. Firms with questions should e-mail them to the CCMA or OSC.

### **10.a Can acceptable policies and procedures, which are to be appropriate to a firm's circumstances, be as simple as five lines for some firms?**

*[Note: At the March 7 CCMA information session, an example along the lines of the following was given and the regulators were asked if this would be considered acceptable for a small broker:*

- *We will report the trade to our investment manager clients within x hours from when executed (or every n hours or at 11 a.m., 1 p.m. and 3 p.m.) and no later than y p.m.*
- *If a client doesn't agree, we will work with the manager on the necessary correction ideally within an hour*
- *Once clients agree with details, we will advise our carrying broker per the system they have provided by their deadline of z p.m.*
- *We try to (1) do everything electronically (we fax now but are implementing a new system interface in x months; we use an internet interface, other), (2) complete the data fields our carrying broker requires us to, (3) commit to work with our clients and carrying broker until problems are resolved and timelines are met or (4) escalate according to agreed-upon internal procedures in place and as agreed with trade-matching parties within agreed timeframes*

- *Our compliance officer (1) confirms we got our clients' trade-matching statement (or agreement) once a year/x times a year, (2) checks semi-annually what our operations department is doing, (3) reviews stats from the carrying broker for timeliness on a monthly (or quarterly) basis, and (4) if matching targets are not met, provides an exception report to the regulators with corrective action taken or to be taken if needed to meet the deadlines, whether the delays are caused by ourselves, our clients or our carrying broker.]*

An OSC representative at a March 7 CCMA information session said that there is no intrinsic value in having policies and procedures that are long and complex as compared to ones that are short and simple. The regulator added that the key to success between trade-matching parties is that the policies and procedures be sufficiently clear and transparent to all counterparties so as to ensure that it is unambiguous as to who is expected to do what, when and how and what are the expectations if it is not done.

### **15.a What is the status of the standard trade-matching statement?**

At the March 7 CCMA information session, a CCMA committee member said that the statement had been drafted and was being reviewed with the OSC. The OSC representative said that the trade-matching statement or agreement should be considered not simply as documentation, but as a tool to set out what counterparties can expect, corrective action, potentially penalties, etc. A brief statement or an industry standard model are not prohibited but firms are encouraged to think of the statement as a way to be able to deal with problems.

### **20.a Are vendors subject to the rule?**

While CDS and matching service utilities (MSUs) are subject to the rule, vendors are not. However, vendors will likely be doing what is necessary to help their clients (which are firms subject to the rule) comply with the rule.

### **29.a Based on operational practice, if a broker fills “good till cancelled orders” over several days, does this mean the broker is not in compliance with NI 24-101 from a regulatory perspective?**

At the March 7 CCMA information session, the custodian speaker said that, operationally, the custodian does not see the interim fills executed until the full order is complete. The same-day trade-matching clock for exception reporting purposes would therefore start on that day from the custodian's reporting perspective. *Note:* Brokers are encouraged to confirm their procedures with respect to trade data entry in the case of “good till cancelled orders” to CDS or their carrying broker to ensure that it will not impact their matching rates.

### **31.a What will regulators do if there is non-compliance?**

The regulators, as mentioned at the March 7 CCMA information session, will be reviewing the CDS and matching service utility reports, as well as exception reports coming in (aggregated industry data from CDS will be published quarterly on the CCMA website). The OSC will likely provide a summary 18 months or so after implementation of the experience, until that time, with findings as to where any recurring problems have been identified. The OSC has a number of remedies it may use, ranging from putting terms and conditions on the registrant or requiring an external auditor to review a firm up to and including termination. While the last option is unlikely, the OSC can and will use the other options if necessary.

### **Other comments**

- **Custodian deadline timing**

At the March 7 CCMA information session, the custodian representative noted that the custodians in Canada are discussing greater standardization of their deadlines (recognizing clients will still have some flexibility) to help the market.

- **Cost-benefit analysis of the rule**

An attendee asked whether there was a cost-benefit analysis of the rule. The OSC representative referred to a CCMA study done early in the decade and comments from a number of parties that

after introduction of systems changes, some firms enjoyed a 75 per cent reduction in the cost of errors and errors management. The Vice-Chair of the CCMA mentioned a 10:1 cost reduction standard rule of thumb from automation.

- **Why are foreign clients within the ambit of the rule?**

At the March 7 CCMA information session, an OSC representative explained that the CSA had realized that, for some firms, foreign clients could put them offside the rule. By making a T and T+1 matching distinction, a firm will not be forced into exception reporting because of, on average, not meeting the target match rate on trade date. The OSC said that for market efficiency, foreign institutional clients needed to be part of the rule.

## **ADDITIONAL QUESTIONS SENT TO CCMA AND REGULATORS**

### **To the CCMA**

1. To facilitate obtaining trade-matching statements and notice of any changes, will there be a central place to which trade-matching parties could post their statements? (related to IIAC question 14)
2. What is the status of development of the CCMA trade-matching statement? Will brokers' and investment managers' trade-matching agreements be the same? (related to IIAC question 15)
3. Will, and if so how, will the broker, buy-side and custodian communities be encouraging use of a standard format and standard approach to make the statements easy to find?
4. Custodians are not subject to CSA regulation; what do custodians actually have to do?
5. What are the concerns about identifying clients not in the Western Hemisphere that an attendee at the March 7 CCMA information session had?
6. Could the CCMA post speaking notes of the speakers at the March 7 CCMA information session on the CCMA website?

### **To Regulators**

1. To avoid wasted paper, will it be sufficient for an accountable person to confirm the date of viewing of a URL of a trade-matching statement on a checklist? (*related to question 14*)
2. For the development of procedures, when will the CSA post the e-mail address to which exception reports must be sent if to the CSA? (*related to question 22*)
3. Would a dealer acting as a dealer AND a custodian report exceptions for each capacity separately, in one report combined or optionally one or the other? (*related to question 22*)