

INSTITUTIONAL TRADE MATCHING AND SETTLEMENT RULE (NATIONAL INSTRUMENT 24-101)

FREQUENTLY ASKED QUESTIONS (FAQ's) (Current as of November 12, 2007)

There continues to be a variety of questions and requests for clarification related to compliance, measurement and reporting with National Instrument 24-101 (NI 24-101 or the Instrument). These questions and requests come from one or all of the affected groups, referred to as trade matching parties – the Buy-side or Investment Manager/Portfolio Manager, the Sell-side or Broker/Dealers, or the Custodians or Administrators of the securities holdings.

While the Canadian Capital Markets Association (CCMA) is an active participant on the Industry Working Group of the Canadian Securities Administrators (CSA) which is discussing many issues relating to NI 24-101, these FAQ's reflect the views of the various committees of the CCMA only, and are not necessarily the views of the CSA or any other participants of the CSA-Industry Working Group.

We invite readers of this information to forward any issues or questions for clarification. Please send these to info@ccma-acma.ca or by calling us at 416-815-2046.

PURPOSE

1. What is the main purpose of NI 24-101?

The central purpose of the Instrument focuses on the development and implementation of policies and procedures necessary to allow trade details to be agreed among participants in the institutional trade process as soon as practical following execution of the trade and ultimately before the end of business on trade date – 11:59 PM at Toronto, ON, Canada.

2. What are the key provisions of the Instrument for Trade Matching and Settlement?

The Instrument requires trade matching parties, i.e., Broker/Dealers, Investment Managers or Institutional Clients, to:

- Establish, maintain and enforce policies and procedures to:
 - a) Ensure that deliver or receive 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 in Toronto, Ontario on trade date or, in certain cases the day following trade date;

Key Provisions continued:

- b) Have these affirmed trades enhance settlement of trades on the scheduled 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 (TMA) with, or provided a trade matching statement (TMS) to each other;
- Send regulators an exception report for any calendar quarter when the minimum transitional or final matching targets for volumes and value have not been met.

3. How did this regulatory requirement start?

With the Canadian Securities Administrators (CSA) Notice on January 12, 2007, and enactment by each of its member securities commissions, NI 24-101 and its related Companion Policy took effect on April 1, 2007. It is predominantly applicable to entities registered with one or more of the provincial securities authorities in Canada, usually referred to as 'registrants', who make institutional trades in securities with deliver against payment or receive against payment (DAP/RAP) instructions. The majority of these registrants are the Buy-side or Investment Manager/Portfolio Manager and the Sell-side or Broker/Dealers.

WHERE TO FIND NATIONAL INSTRUMENT 24-101 (NI 24-101)

4. Where is National Instrument 24-101 published?

The Instrument, its appendices and Companion Policies can be found in English at:

http://www.osc.gov.on.ca/Regulation/Rulemaking/Current/Part2/rule_20070323_24-101_trade-matching.pdf

The Instrument, its appendices and Companion Policies can be found in French at:

http://www.lautorite.qc.ca/reglementation/valeurs-mobilieres/autres-reglements-textes-vigueur.fr.html#tdm_10269876

Autres règlements et textes - [Règlement 24-101 sur l'appariement et le règlement des opérations institutionnelles](#) et [Instruction générale relative au Règlement 24-101 sur l'appariement et le règlement des opérations institutionnelles](#)

Readers may benefit from initially reading the Companion Policy (in French - Instruction générale), which follows the Forms which are part of the Rules and Policies.

MEASUREMENT

5. When did the Instrument's measurement processes for reporting begin?

The required measurement on trade entry and matching rates for NI 24-101 began on October 1st of 2007, and continues for the first reporting period ending December 31, 2007.

- Currently, the traded entry and matching threshold changes from 11:59 AM (noon) on T+1 to 11:59 PM (midnight) on July 1st of 2008.
- The eventual threshold for trade entry and matching is 95% by 11:59 PM (midnight) commencing January 1, 2010, and for every quarter thereafter
- Reporting periods are calendar quarters, and measurement thresholds increase progressively from now until the beginning of 2010. The scheduled increments follow.

6. What are the scheduled dates for increases and changes in the trade entry and matching thresholds?

The trade entry and matching thresholds established in the Instrument are as follows:

For trades executed during calendar quarters shown	Matching deadline for trades executed on T	Performance targets to avoid exception reporting
Q2 and Q3 2007	12:00 PM (Noon) on T+1	N/A (exception reporting not required)
<u>Current period</u> Starting October 1, 2007 (Q4 2007)	12:00 PM (Noon) on T+1	80% matched by deadline
Q1 & Q2 2008	12:00 PM (Noon) on T+1	90% matched by deadline
Q3 & Q4 2008	11:59 PM on T+0	70% matched by deadline
Q1& Q2 2009	11:59 PM on T+0	80% matched by deadline
Q3 & Q4 2009	11:59 PM on T+0	90% matched by deadline
Q1 2010 and beyond	11:59 PM on T+0	95% matched by deadline

Measurement moves from T+1 at 11:59 AM (Noon) to 11:59 PM on T+0 on July 1st, 2008.

7. Where does the measurement process begin?

In the majority of circumstances, it begins with institutional trades that are processed through the Canadian Depository for Securities Limited (CDS) as initiated by professional money managers or institutional investors. Mutual fund, pension fund, hedge fund and/or investment counselor operations are therefore potentially within the scope of the Instrument.

8. How do parties trading in these securities get processing information?

CDS has been working with its membership (members or CUID's) to provide daily and monthly reporting of trade entry and match rates of institutional trades. These are trades each coded for processing at CDS with the input code "C" – Client Trade – which is described for use in identifying trades between a broker/dealer and a settlement agent who have the same client, where receipt necessitates payment upon delivery.

These are referred to as institutional trades and/or client trades with deliver against payment or receive against payment (DAP/RAP) privileges. These trades can also be referred to as trades with deliver versus payment / receive versus payment (DVP/RVP) privileges,

This information needs to be correlated with internal processing records, and under-performance researched in the most expedient method possible. Under-performance needs to be rectified in the most efficient means, through client reporting and mutual agreement with the counterparty and/or administrator.

(It is realized that not all situations of under-performance can be resolved immediately. It is important these situations be documented and action plans with target dates be in place).

ACCOUNT DOCUMENTATION

9. What account documentation is required?

A **Trade Matching Statement (TMS) or alternatively a Trade Matching Agreement (TMA)** is required of all trade-related parties prior to execution of institutional trades effective October 1, 2007. In this document, the investment manager, broker/dealer or custodian confirms that **processes and procedures** are in place, based on industry best practices, which facilitate meeting the transitional matching requirements set out in the Instrument.

10. What is the difference between a trade matching agreement (TMA) and trade matching statement (TMS)?

A *TMS* is a bilateral signed document by two trade matching parties confirming that each has established, maintains and enforces policies and procedures to achieve matching of a trade as soon as practical after its execution. It may be 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 the senior executive overseeing operations and back-office functions.

A *TMA* 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 and other contracts.

Any version posted on the web does not have to illustrate a signature, and it can be posted on the issuing firm's website and/or the website of the Investment Industry Association of Canada (<http://www.iiac.ca/>), with instructions in the section titled – Other Resources – Institutional Trade Matching. The TMA of many firms – Investment Managers, Broker/Dealers, and Custodians - are already posted within this location at – <http://www.iiac.ca/main.aspx?Language=En&LoadContentID=70>

11. Are there standard forms of these agreements?

For Canadian registrants, there is a sample TMS in both official languages located on this website at the following links:

[Http://www.ccma-acmc.ca/en/key_priorities/national24101.html](http://www.ccma-acmc.ca/en/key_priorities/national24101.html)

[Http://www.ccma-acmc.ca/fr/key_priorities/national24101.html](http://www.ccma-acmc.ca/fr/key_priorities/national24101.html)

It is the policies and procedures underlying the agreements and statements that are important. The document itself – either a TMS or TMA - as required under the Instrument, attests to the existence of these underlying policies and procedures, whether a cross-reference to existing policies and procedures in daily usage, or a set of policies and procedures specific to the Instrument.

It cannot be reasonably expected to have non-Canadian firms specifically attest to compliance to the Instrument. Their attestation is more a statement of having sound practices in support of policies and procedures for trade matching that will compliment the trade entry and matching efforts of their Canadian counterparts.

12. Are separate trade matching agreements or statements required for each account?

No. A single trade matching agreement or statement (TMA or TMS) is sufficient for the business entity with general and possibly sub-accounts through which institutional trades with DAP/RAP instructions are processed at CDS.

13. How are firms providing their trading partners with the required trade matching agreements or statements (TMA or TMS)?

Firms have used several options for satisfying the documentation requirements. A specific TMS or TMA may have been provided individually to all trade related parties either by regular mail, courier delivery or e-mail. Alternatively, an update or an addendum to client documentation may have been arranged. Some firms have posted a version of its trade matching statement on its website for review by other trade-related parties, and or on the website location facilitated by the IIAC - <http://www.iiac.ca/main.aspx?Language=En&LoadContentID=70>.

14. What happens if a firm refuses to issue a trade matching statement or agreement?

Effective October 1, 2007 trading partners to whom DAP/RAP account privileges have been granted should have issued a trade matching statement or entered into trade matching agreements in order for a registered broker/dealer to be allowed to accept trade instructions. Refusal to commit to the required documentation will potentially result in firms being denied execution of trades involving DAP/RAP, particularly when those refusing are causing a registrant to be habitually below the threshold, and the ongoing filing of the prescribed quarterly exception report to the CSA.

Trades should not be processed through new accounts that will have DAP/RAP trades until a TMA or TMS is in place. All registrants should document any and all ongoing efforts with counterparties to obtain a TMS or TMA. In addition and on a regularly scheduled basis, it may be advisable to perform and evidence verification towards ensuring all trading partners are continuing to be compliant through their TMA or TMS.

FOREIGN COUNTERPARTIES

15. Does the Rule apply to foreign counterparties?

The Instrument applies to foreign-based institutional investors and custodians holding Canadian portfolio assets through a local Canadian sub-custodian that involve processing for settlement through CDS. It also applies to foreign global custodians or international central securities depositories that are members of CDS, and/or are directly involved in DAP/RAP trades in Canada.

Foreign-based trade matching parties that operate in the same time zones as Canada can reasonably be expected to facilitate trade entry and matching within the same scheduled thresholds applying to Canadian firms. When investment decisions are made or communicated from outside the time zones for Canada, an additional trading day to meet the entry and matching requirements is allowed, if necessary. However, these trades must meet other rule requirements, including being part of a trade matching agreement and/or issuing a trade matching statement.

ADMINISTRATION AND REPORTING

16. How is the new policy going to be administered? What are the roles of all the participants and the regulators?

CDS provides each of its members with ITM performance reporting for trades coded as “C” on a daily and monthly basis. CDS provides summary reporting by member to the CSA for institutional trade entry and matching (ITM) rates for quarterly review. The CDS members receiving trade entry and matching data are the broker/dealers and the custodians.

Reporting to the CSA is only required when scheduled thresholds are not met, with the calculation based on the composite average of entry and matching rates for the quarter. Reporting is required within the ensuing 45 days.

The investment managers can expect reporting on entry and matching rates from its executing broker/dealers and/or its custodians. At a minimum, it will highlight non-achievement of the threshold applicable for the quarter.

The custodians and the broker/dealers will have varying levels of detail related to trade processing in support of their entry and matching rates as reported by CDS. Actual reporting to their respective clients will be arranged directly.

The investment manager will only need to report to the regulator when its ITM is reported as below the applicable threshold by its counterparties – broker/dealers or custodians.

The broker/dealers, including introducing and carrying broker/dealers, will have to report when the respective entry and matching rates for trades by their brokerage group are below the applicable threshold. In the case of a carrying broker meeting the threshold, despite one or more its client introducing brokers being below the threshold, the carrying broker does not need to provide a report to the regulators.

The carrying broker is expected to provide an ITM performance report to each of its client introducing brokers. Each of the introducing brokers that are identified as below the threshold by its carrying broker does need to provide the regulator with an exception report to the CSA in the format prescribed in the Instrument within 45 days of the respective quarter end.

As well, these introducing brokers are expected to provide ITM performance data to their clients that are parties to the trade matching process. This will be based on the statistics provided by its carrying broker for ITM rates of its institutional trades, which are a subset of the statistics of the all the carrying broker’s trades processed through CDS.

17. Who is responsible for tracking the agreements amongst the parties?

The trade originator is first responsible to see that the trade facilitator (broker/dealer) has provided or published in accordance with the Instrument. The trade facilitator is similarly responsible to check that the trade originator is compliant. Otherwise there should be no institutional trading.

Both groups should be able to show due diligence towards ensuring the counterparties are compliant, and/or efforts to achieve compliance if not yet in place. The regulators do not want to inhibit trading, but do want all parties to make strong and continuing efforts, especially when Canadian, to achieve compliance to the Instrument.

18. What should be encompassed within the policies and procedures for reporting as expected by the regulator?

There should be clear illustration of how the trade flow takes place and who is involved to ensure ITM within the prescribed thresholds. This is where exception reporting begins and it should include the aspects described within the Forms section of the Instrument, listed as Form 24-101F1.

19. What is entailed in exception reporting?

Where during a reporting period a firm fails to achieve the thresholds in the Instrument above, it must complete an exception report. The format is described in the Forms section of the Instrument. It is important to remember that thresholds are for cumulative volumes and value as well.

This reporting must provide explanations for the reasons that there was failure to achieve the targeted performance, plus the plans for correcting/improving performance going forward. All reports are to be provided in electronic form in a manner to be specified by the CSA.

20. How will the Canadian Securities Association (CSA) and Standard Regulatory Organizations (SRO's) monitor compliance?

The CSA and SRO's will monitor compliance through a review of the CDS summary reports, exception reports, field audits, reviews of documentation requirements and compliance sweeps. The CSA will be provided with a quarterly summary by CDS in Canadian funds only for all of its members.

21. What, if any, are the consequences of not meeting the target percentages? Will there be a sliding scale of consequences depending on how close you are to the target? How will consequences be assessed when there is dependency amongst the parties?

This is a work-in-progress at this point in time.

The CCMA believes that over time that the regulators will become more attentive when the same causes and/or action plan as prescribed for in the exception report is repeated in successive quarters, and there is no evidence of progress.

The CCMA believes that the habitual filing of exception reports will most probably result in intensified invigilation and possible movement into a higher risk category.

22. If metrics differ between participants (i.e., Investment Manager (IM) vs. Broker/Dealers or vs. Custodian), how will these be resolved?

They will be solved on a case-by-case basis by the respective parties. This is an effort where the trade matching parties should be proactive in resolving any discrepancies/inefficiencies.

23. Will trade entry matching rates calculated by all participants in the institutional trade matching process reconcile with each other?

We are not aware of an existing mechanism that will provide numerical synchronization among all trade-related parties over a given reporting period.

Indeed, the existing source of trade matching data (CDS) only records information for its direct members (principally broker/dealers and custodians). The CSA will be provided with a quarterly summary of these statistics.

As and when, trade matching parties begin to utilize matching service utilities (MSU's) or virtual matching utilities (VMU's), these utilities may be expected to provide a variety of ITM reporting to their clients. If mandated and accepted to do so by the CSA, these utilities will also provide summary reporting to the regulators.

Nevertheless, general agreement is expected to be achieved among participants with specific analyses to be undertaken where differences arise relating to individual registrant performance or impacts on other trade related parties. This will involve a co-operative effort on behalf of the trade matching parties to determine the cause and, more importantly, to resolve these instances on an ongoing basis so all participants can meet the thresholds.

24. What is the total reporting process to the CSA as it involves CDS, Custodians, Broker/Dealers and Investment Managers?

Reporting to the regulators (CSA) is to be in Canadian funds only. All reporting parties should use the same US to CDN dollar conversion rate that was used by CDS at the end of the respective quarter.

CDS will provide a summary report(s) to the regulator(s) summarized by cumulative average for each CUID in Canadian dollars only for quarterly review. CDS will supply each CUID with daily and monthly statistics in the currency of the trade that corresponds to the CUID's statistics reported in summary to the regulator(s).

Custodians will report to their clients in the manner and frequency requested by the client, subject to reporting requirements related to real or implied service level agreements. The custodians have no regulatory reporting requirement to the regulatory members of the CSA.

Broker/Dealers will report to the regulators only when their cumulative average is below the threshold with all trade values converted to Canadian dollars. Broker/dealers are expected to be able to indicate and respond with sufficient detail to any investment management client where its cumulative performance in volume and/or value is under the threshold.

Carrying brokers must be able to identify underperformance to their introducing brokers. Each of the introducing brokers that are identified as below the threshold by its carrying broker does need to provide the regulator with an exception report to the CSA. As well, these introducing brokers are expected to provide ITM performance data to their clients that are parties to the trade matching process.

Similarly, Investment Managers will report to the regulators only when their cumulative average is below the threshold with all trade values converted to Canadian dollars.

Investment Managers need to ensure that data received from custodians has comparability for research purposes to the data, if requested, from their broker/dealers.

25. How long should trade information be maintained?

CDS has stated that the statistics for ITM will be available to each CUID through its RMS access facility for historical information for 7 years. This is congruent with most of CDS's other retention practices.

Each firm's retention should be guided by the standards set by your compliance group for facilitating internal and external audits. If your firm can replicate the reports, and the associated data from the information archived at CDS, an in-house retention period of 15 to 18 months covering 5 to 6 quarters may be appropriate. Or if it is easier for your firm to replicate, as little as 6 or 9 months for 2 to 3 quarters may be sufficient.

26. Would regulatory bodies have access to ITM reporting, and can the regulators make requests for supporting data?

Only a summary report listing the matching results of all CUID's will be provided by CDS to the CSA for regulatory review purposes. The respective regulator(s) will likely then look at the information received by the CSA to determine which firms under their auspices are offside. The respective regulators will then look to see if these firms have fully reported their results, explaining causes and remedial or progressive action plans. These regulatory members of the CSA may be then monitoring reporting firms for progress, and it is the current position that based on a series of below threshold exception reports without any meaningful improvements, the respective regulator(s) may initiate interrogation either through the appropriate SRO or directly.

27. Custodians and Broker/Dealers have Investment Manager Clients that are non-Canadian and therefore are not regulated by the CSA. A number of these non-Canadian Investment Managers have asked what the reporting requirements are in the event that NI 24-101 targets are not achieved in a particular quarter.

The CCMA has learned through its members and committees that some non-Canadian firms have said that their policies and procedures already encompass the elements required for efficient trade matching. Some non-Canadian firms have commented that the regulatory bodies, under which these firms operate, prohibit their entering into a TMA or TMS and/or reporting to a foreign authority.

The CSA-Industry Working Group has been informed of the non-response, and in some cases refusal or inability, of non-Canadian firms to comply with NI 24-101 (the Instrument). This both as it relates to entering into a Trade Matching Agreement (TMA) or publishing a Trade Matching Statement (TMS), and any expectation of reporting.

The CSA expect all Canadian trade matching parties to work to be fully compliant, and to continue to work diligently to achieve working arrangements with their non-Canadian counterparties.

It is important that each Canadian firm record these efforts and any responses, and report any non-compliance caused by non-Canadian counterparties, appropriately identifying such causes and commenting on its efforts.

(N.B.: The CSA are expected to publish FAQ's in the near future, which are expected to clarify the meaning of western hemisphere and possibly the requirements for compliance when there is a non-Canadian trading counterparty.)

INFORMATION ON TRADE ENTRY AND MATCHING PERFORMANCE

28. Where can sell-side firms get information about their specific performance?

CDS currently provides reports to all its members (CUID's) that can be used to determine trade entry and matching rates on a daily and monthly basis.

Any further dissemination and distribution will be dependent upon the CDS member's ability to publish such reports and/or enable access to the applicable data.

29. Where can registered advisors i.e., Buy-side firms, get information about their current trade matching performance?

Details of trade entry and matching performance of buy-side firms are not available from CDS. In most cases, buy-side firms will need to work with their custodians, and possibly their executing broker/dealers, to secure the information required to research and calculate their trade-matching performance, and then ascertain if exception reporting is required.

30. Can registered advisors calculate their own trade-matching rate?

A buy-side firm can theoretically calculate its own matching rate based on information already provided by its custodians. For example, it may request its custodians to advise it when the status of an order changes to confirmed and track such information on an ongoing basis. However, additional information could still be necessary to fully complete requirements for exception reporting (as and when needed).

31. Is Industry-wide reporting of trade matching rates envisaged?

CDS will be providing the CSA with monthly reports, accumulating to a quarterly report identifying current matching rates. In addition, firms offering services of a trade matching service utility (MSU) are also required to provide reports to the regulator.

Quarterly exception reports are to be provided centrally to the CSA by registrants below the applicable threshold, within 45 days of the quarter end. (*Destination address to be published in the near future.*)

The CCMA publishes a summary report of entry and matching statistics for the securities industry on the basis of information received from CDS.

32. Are there items in the ITM reporting by CDS that should not be included?

CDS reports on all trades with an input code of 'C'. There are trades which have inappropriate input codes – instead of coding a new issue purchase with a 'C', it should be input with the 'NI' code.

A bulletin was jointly issued by the IDA and CDS – MR095 at the IDA - on September 27th, 2007. This bulletin emphasizes the importance of using the correct code for inputting the trade transaction, and referenced the source for reviewing the 20 plus possible trade input codes at CDS.

33. What will help to improve the matching rates for the custodians?

At the inception of the trade order, and during any necessary subsequent input stage, it is important that the field for the “Acceptor Internal Account” be properly completed with the current account number(s) of the account(s) at each custodian. While it is a mandatory field for CDS processing, it is not an edited field, and any erroneous or inaccurate data will delay the matching process.

WHAT CONTINUES TO BE IMPORTANT

34. What can be done on an ongoing basis?

Suggested review steps in assessing the level of compliance with the implementation of this Instrument include the following:

- Continue to assess internal operations to improve capabilities to meet trade entry and matching deadlines;
- Continue efforts to ascertain or obtain a TMS or TMA from trading parties, particularly from active trading counterparties;
- Analyze reason for trades not matching within the threshold and work with trading partners to reduce/eliminate the problems.

Other aspects to consider include:

- Joining an appropriate CCMA committee or working group to participate in the development and implementation of ITM solutions;
- Investigating assistance available from other trade matching parties (broker/dealers and custodians);
- Reviewing and updating resources such as industry ‘best practices’;
- Consulting with and seeking assistance from supporting vendors.

CCMA'S ROLE

35. What is the CCMA's role?

The (CCMA) acts as a liaison point for the various trade matching parties in the Canadian securities industry as each prepares for achieving compliance - “to have their DAP/RAP trades entered and matched, eventually by the end of the trading day (T+0).”

The CCMA has been facilitating all trade matching parties to meet, discuss and modify aspects of their “Best Practices” in working towards achieving this goal, and to measure the success of these efforts in conjunction with those of the other trade matching parties involved.

The CCMA has also been involved collectively in helping these trade matching parties define the information necessary for calculating performance, and identifying possible causes for any applicable exception reporting by the registrants to the respective securities authorities in Canada through a secure CSA facility.

OTHER RESOURCES

36. Are there other resources available?

For Broker/Dealers:

- Investment Industry Association of Canada (www.iiac.ca)

For Investment Managers:

- Investment Counsel Association of Canada (www.investmentcounsel.org)
- Pension Investment Association of Canada (www.piacweb.org)
- Investment Funds Institute of Canada (www.ific.ca)

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