

The Canadian Capital Markets Association highlights key information outlined in National Instrument 24-101 – Institutional Trade Matching (ITM) and Settlement

Background/recap

National Instrument 24-101 (NI 24-101) was initially issued in April 2004. It was materially revised and reissued together with a companion policy in March 2006. Following the receipt of individual responses from interested parties, the instrument has been further refined and has now been issued in final form. The rule becomes effective April 1, 2007 although specific reporting and documentation requirements do not begin until October 1, 2007 (Q4 2007) for filing in February 2008.

NI 24-101 provides a framework in securities legislation for ensuring more efficient and timely processing and settlement of institutional trades. It requires participants in the institutional trading process to have in place processes and procedures that allow trade matching within prescribed limits (performance targets), which will be phased in over roughly a three-year period.

What constitutes an institutional trade and who is affected?

- ◆ For the purposes of the instrument, an **institutional trade** is considered to be any trade executed for a client trading account that permits settlement on a delivery/receipt against payment basis whether through an independent custodian or where a broker acts as custodian delivery against payment/receipt against payment (DAP/RAP) accounts. Therefore, mutual fund, pension fund, hedge fund and investment counselor operations are within scope.
- ◆ **Trade matching party**, in relation to an institutional trade, includes the registered adviser (buy-side firm), the broker and the custodian involved in executing and/or clearing the trade. In short, money managers, broker-dealers and custodians are primarily affected.

Main requirements

The central requirement under this instrument focuses on the development and implementation of policies and procedures necessary to allow trade details to be agreed among trade related parties as soon as practical

following trade execution. Attesting to these policies and procedures the instrument includes specific requirements for documentation, transitional matching targets and exception reporting.

- ◆ **Documentation.** A **trade matching statement or alternatively a trade matching agreement** is required of all trade related parties prior to trade execution for institutional accounts effective October 1, 2007. It is anticipated that standard forms will be developed for use across the industry. Their communication can be implemented via e-mail or by posting the statement on a participant's website or via more formal communication. In this document, the investment manager, broker or custodian confirms that it has **processes and procedures** in place, based on industry best practice, that allow it to meet the transitional matching requirements set out in the instrument.
- ◆ **Transitional matching targets.** Trade matching performance targets have been established as set out in the table below.

These targets are set out in parts 3, 4 and 10 of the Instrument and are based on both the aggregate numbers of institutional trades and their aggregate dollar value.

For trades executed during calendar quarters shown	Matching deadline for trades executed on T*	Performance targets to avoid exception reporting
Q2 and Q3 2007	Noon on T+1	N/A (exception reporting not required)
Q4 2007	Noon on T+1	80% matched by deadline
Q1 and Q2 2008	Noon on T+1	90% matched by deadline
Q3 and Q4 2008	11:59 p.m. on T	70% matched by deadline
Q1 and Q2 2009	11:59 p.m. on T	80% matched by deadline
Q3 and Q4 2009	11:59 p.m. on T	90% matched by deadline
Q1 2010 and beyond	11:59 p.m. on T	95% matched by deadline

**Note: For non-western hemisphere institutional investors matching deadlines are extended by an extra day.*

- ◆ **Exception reporting.** To the extent that performance targets are not met for a calendar quarter, brokers and/or registered advisors are required to explain the reason(s) for failing to achieve targeted performance under part 4 of the Instrument. These explanations should describe the circumstances or underlying causes that contributed to the failure together with the specific steps planned to resolve delays in the future and anticipated timelines for completing these steps.

Overall reporting of Institutional Trade Matching performance will be provided to brokers, custodians and regulators by CDS Clearing and Depository Services Inc. (CDS) based on its available data. This data will identify trade matching performance primarily for its clearing participants who will, in turn, analyze their respective results for root causes of failures to match trades on time. Discussions among custodians, investment managers and brokers of causes and plans for resolution will likely follow once the need for exception reporting has been identified.

We anticipate custodians will collaborate with money manager clients in the development of appropriate ITM performance reporting.

Monitoring and compliance

Initially, the Canadian Securities Administrators (CSA) proposed to review the exception reports identifying parties with weak processes and/or procedures that prevent matching within the prescribed time frames. Affected firms may therefore expect direct requests from the securities commissions and/or SROs.

Trade matching utilities

The Instrument does not require the use of a trade matching utility although it acknowledges the potential for such entities to enhance operational effectiveness.

The operations of a matching utility are seen as concentrating processing risk (while enhancing efficiency) and for this reason detailed initial and ongoing filing requirements for such entities are outlined in part 6 of the Instrument.

Matching service utilities would exclude a regulated clearing agency that may provide centralized facilities for matching trades (i.e., the latter would not be subject to the requirements of part 6 of the Instrument).

Recommended next steps

This brief summary outlines the high level requirements under the proposed National Instrument. We recommend interested industry participants consider the following:

1. Secure details of the proposed National Instrument http://www.osc.gov.on.ca/Regulation/Rulemaking/Current/Part2/rule_20070112_24-101_not-ni-trade-match.jsp.
2. Assess internal operations for ability to meet trade deadlines and therefore avoid exception reporting.
3. Initiate internal plans to alter operations to facilitate compliance by both your firm and your trade matching counterparties. Other resources to consider include:
 - ◆ Join an appropriate CCMA committee or working group to participate in the development and implementation of ITM solutions
 - ◆ Investigate assistance available from other trade matching parties (brokers and custodians)
 - ◆ Review resources such as industry best practices
 - ◆ Consider assistance from supporting vendors.
4. Formalize action plans.
5. Contact the CCMA if further information is required.