

ANNEX F

BLACKLINE TO

COMPANION POLICY 24-101CP *INSTITUTIONAL TRADE MATCHING AND SETTLEMENT*

Contents

Part 1 Introduction, Purpose and Definitions

Purpose of Instruction
General explanation of matching, clearing and settlement
Section 1.1 - Definitions and scope

Part 2 Trade Matching Requirements

Trade data elements
Trade matching deadlines for registered firms
Choice of trade-matching agreement or trade-matching statement
Determination of appropriate policies and procedures
Use of matching service utility

Part 3 Information Reporting Requirements

~~Exception reporting for registered firms~~
~~Regulatory reviews of registered firm exception reports~~
Other Information reporting requirements
~~Forms delivered in electronic form~~
Confidentiality of information

Part 4 Requirements for Matching Service Utilities

Matching service utility
Initial information reporting requirements for a matching service utility
Change to significant information
Ongoing information reporting and other requirements applicable to a matching service utility
Capacity, integrity and security system requirements

Part 5 Trade Settlement

Trade settlement by dealer

Part 6 Requirements of Self-Regulatory Organizations and Others

Standardized documentation

PART 1 INTRODUCTION, PURPOSE AND DEFINITIONS¹

Purpose of Instrument

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

General explanation of matching, clearing and settlement

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

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

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

(3) *Matching process* — Verifying the trade data elements is necessary to *match* a trade executed on behalf of or with an institutional investor. Matching occurs when the relevant parties to the trade have, after verifying the trade data elements, reconciled or agreed to the details of the trade. Matching also

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

2 For a discussion of Canadian STP initiatives, see Canadian Securities Administrators' (CSA) Discussion Paper 24-401 on *Straight-through Processing* and Request for Comments, April 16, 2004 (2004) 27 OSCB 3971 to 4031 (Discussion Paper 24-401); and CSA Notice 24-301—*Responses to Comments Received on Discussion Paper 24-401 on Straight-through Processing, Proposed National Instrument 24-101 Post-trade Matching and Settlement, and Proposed Companion Policy 24-101CP to National Instrument 24-101 Post-trade Matching and Settlement*, February 11, 2005 (2005) 28 OSCB 1509 to 1526.

3 The processes and systems for matching of "non-institutional trades" in Canada have evolved over time and become automated, such as retail trades on an exchange, which are matched or *locked-in* automatically at the exchange, or direct non-exchange trades between two participants of a clearing agency, which are generally matched through the facilities of the clearing agency. Dealer to dealer trades are subject to ~~Investment Industry Regulatory Organization of Canada (IIROC) Member Rule 800.49~~ Canadian Investment Regulatory Organization (CIRO) Rules, such as IDPC Rule 4753, which provides that trades in non-exchange traded securities (including government debt securities) among dealers must be entered or accepted or rejected through the facilities of an "Acceptable Trade Matching Utility" by no later than 6 pm on the day of the trade.

requires that any custodian holding the institutional investor's assets be in a position to affirm the trade so that the trade can be ready for the clearing and settlement process through the facilities of the clearing agency. To illustrate, trade matching usually includes these following activities:

- (a) The registered dealer notifies the buy-side manager that the trade was executed.
- (b) The buy-side manager advises the dealer and any custodian(s) how the securities traded are to be allocated among the underlying institutional client accounts managed by the buy-side manager.⁴ For so-called *block settlement trades*, the dealer sometimes receives allocation information from the buy-side manager based only on the number of custodians holding institutional investors' assets instead of on the actual underlying institutional client accounts managed by the buy-side manager.
- (c) The dealer reports and confirms the trade details to the buy-side manager and clearing agency. The trade details required to be confirmed for matching, clearing and settlement purposes are generally similar to the information required in the customer trade confirmation delivered pursuant to securities legislation or self-regulatory organization (SRO) rules.⁵
- (d) The custodian or custodians of the assets of the institutional investor verify the trade details and settlement instructions against available securities or funds held for the institutional investor. After trade details are agreed, the buy-side manager instructs the custodian(s) to release funds and/or securities to the dealer through the facilities of the clearing agency.

(4) *Clearing and settlement* — The *clearing* of a trade begins after the execution of the trade. After matching is completed, clearing will involve the calculation of the mutual obligations of participants for the exchange of securities and money—a process which generally occurs within the facilities of a clearing agency. The *settlement* of a trade is the moment when the securities are transferred finally and irrevocably from one participant to another in exchange for a corresponding transfer of money. In the context of settlement of a trade through the facilities of a clearing agency, often acting as central counterparty, settlement will be the discharge of obligations in respect of funds or securities, computed on a net basis, between and among the clearing agency and its participants. Through the operation of novation and set-off in law or by contract, the clearing agency becomes a counterparty to each trade so that the mutual obligation to settle the trade is between the clearing agency and each participant.

Section 1.1 - Definitions and scope

1.3 (1) *Clearing agency* — While the terms "clearing agency" and "recognized clearing agency" are generally defined in securities legislation,⁶ we have defined *clearing agency* for the purposes of the Instrument to narrow its scope to a recognized clearing agency that operates as a securities settlement system. The term *securities settlement system* is defined in National Instrument 24-102 *Clearing Agency Requirements* as a system that enables securities to be transferred and settled by book entry according to a set of predetermined multilateral rules. Today, the definition of *clearing agency* in the Instrument applies to CDS Clearing and Depository Services Inc. (**CDS**). For the purposes of the Instrument, a clearing agency includes, in Québec, a clearing house and settlement system within the meaning of the *Securities Act* (Québec). See subsection 1.2(2).

(2) *Custodian* — While investment assets are sometimes held directly by investors, most are held on behalf of the investor by or through securities accounts maintained with a financial institution or dealer.

4 We remind registered advisers of their obligations to ensure fairness in allocating investment opportunities among their clients. An adviser must establish, maintain and apply policies and procedures that provide reasonable assurance that the firm and each individual acting on its behalf fairly allocates investment opportunities among its clients. If the adviser allocates investment opportunities among its clients, the firm's fairness policies should, at a minimum, indicate the method used to allocate the following: (i) price and commission among client orders when trades are bunched or blocked; (ii) block trades and initial public offerings (IPOs) among client accounts, and (iii) block trades and IPOs among client orders that are partially filled, such as on a pro-rata basis. The fairness policies should also address any other situation where investment opportunities must be allocated.

A summary of the fairness policies must be delivered to each client at the time the adviser opens an account for the client, and in a timely manner if there is a significant change to the summary last delivered to the client.

See sections 14.3 and 14.10 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103) and section 14.10 of the Companion Policy to NI 31-103.

5 See, for example, section 14.12 of NI 31-103 and HROC Member Rule 200.1(h) IDPC Rule 3816 Trade Confirmations.

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

The definition of *custodian* includes both a financial institution (non-dealer custodian) and a dealer acting as custodian (dealer custodian). Most institutional investors, such as pension and mutual funds, hold their assets through custodians that are prudentially-regulated financial institutions. However, others (like hedge funds) often maintain their investment assets with dealers under so-called *prime-brokerage* arrangements. A financial institution or dealer in Canada need not necessarily have a direct contractual relationship with an institutional investor to be considered a custodian of portfolio assets of the institutional investor for the purposes of the Instrument if it is acting as sub-custodian to a global custodian or international central securities depository.

(3) *Institutional investor* — A client of a dealer that has been granted DAP/RAP trading privileges is an institutional investor. This will likely be the case whenever a client's investment assets are held by or through securities accounts maintained with a custodian instead of the client's dealer that executes its trades. While the expression "institutional trade" is not defined in the Instrument, we use the expression in this Companion Policy to mean broadly any DAP/RAP trade.

(4) *DAP/RAP trade* — The concepts *delivery against payment* and *receipt against payment* are generally understood by the industry. They are also defined terms in the Notes and Instructions (Schedule 4) to the ~~ROC~~ IDPC Form 1, Part II. All DAP/RAP trades, whether settled by a non-dealer custodian or a dealer custodian, are subject to the requirements of Part 3 of the Instrument. The definition of DAP/RAP trade excludes a trade for which settlement is made on behalf of a client by a custodian that is also the dealer that executed the trade.

(5) *Trade-matching party* — An institutional investor, whether Canadian or foreign-based, may be a trade-matching party. As such, it, or its adviser that is acting for it in processing a trade, should enter into a trade-matching agreement or provide a trade-matching statement under Part 3 of the Instrument. However, an institutional investor that is an individual or a person or company with total securities under administration or management not exceeding \$10 million, is not a trade-matching party. A custodian that settles a trade on behalf of an institutional investor is also a trade-matching party and should enter into a trade-matching agreement or provide a trade-matching statement. However, a foreign global custodian or international central securities depository that holds Canadian portfolio assets through a local Canadian sub-custodian would not normally be considered a trade-matching party if it is not a clearing agency participant or otherwise directly involved in settling the trade in Canada.

(6) *Application of Instrument* — Part 2 of the Instrument enumerates certain types of trades that are not subject to the Instrument.

PART 2 TRADE MATCHING REQUIREMENTS

Trade data elements

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

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

Trade matching deadlines for registered firms

2.2 The obligation of a registered dealer or registered adviser to establish, maintain and enforce policies and procedures, pursuant to sections 3.1 and 3.3 of the Instrument, will require the dealer or adviser to take reasonable steps to achieve matching as soon as practical after the DAP/RAP trade is executed and in any event no later than ~~4:25 p.m. (noon)~~ 3:59 a.m. Eastern Time on T+1. The policies and

procedures requirement of Part 3 of the Instrument is consistent with the overarching obligation of a registered firm to manage the risks associated with its business in accordance with prudent business practices.⁷

Choice of trade-matching agreement or trade-matching statement

2.3 (1) Establishing, maintaining and enforcing policies and procedures —

- (a) Under sections 3.2 and 3.4, a registered dealer's or registered adviser's policies and procedures must be designed to encourage trade-matching parties to (i) enter into a trade-matching agreement with the dealer or adviser or (ii) provide or make available a trade-matching statement to the dealer or adviser. The purpose of the trade-matching agreement or trade-matching statement is to ensure that all trade-matching parties have established, maintain, and enforce appropriate policies and procedures designed to achieve matching of a DAP/RAP trade as soon as practical after the trade is executed. If the dealer or adviser is unable to obtain a trade-matching agreement or statement from a trade-matching party, it should document its efforts in accordance with its policies and procedures.
- (b) The parties described in paragraphs (a), (b), (c), and (d) of the definition "trade-matching party" in section 1.1 of the Instrument need not necessarily all be involved in a trade for the requirements of sections 3.2 and 3.4 of the Instrument to apply. There is no need for an adviser to be involved in the matching process of an institutional investor's trades for the requirement to apply. In this case, the trade-matching parties that should have appropriate policies and procedures in place would be the institutional investor, the dealer and the custodian.
- (c) The Instrument does not ~~provide~~ prescribe the form of a trade-matching agreement or trade-matching statement other than it be in writing. Subsections (2) and (3) below provide some guidance on these documents. A trade-matching agreement or trade-matching statement should be signed by a senior executive officer of the entity to ensure its policies and procedures are given sufficient attention and priority within the entity's senior management. A senior executive officer would include any individual who is (a) the chair of the entity, if that individual performs the functions of the office on a full time basis, (b) a vice-chair of the entity, if that individual performs the functions of the office on a full time basis, (c) the president, chief executive officer or chief operating officer of the entity, and (d) a senior vice-president of the entity in charge of the entity's operations and back-office functions.

(2) Trade-matching agreement —

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

For the dealer executing and/or clearing the trade:

⁷ See s. 11.1 of NI 31-103, which requires registered firms to establish, maintain and apply policies and procedures that establish a system of controls and supervision sufficient to manage the risks associated with their business in accordance with prudent business practices.

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

For the institutional investor or its adviser:

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

For the custodian settling the trade at the clearing agency:

- how and when to receive trade details and settlement instructions from institutional investors or their advisers;
- how and when to review and monitor trade details submitted to the clearing agency on an ongoing basis for items entered and awaiting affirmation or challenge;
- how and when to report to institutional investors or their advisers on an ongoing basis changes to the status of a trade and the matching of a trade;
- general duties of the custodian to cooperate with other trade-matching parties in the investigation, adjustment, expedition and communication of trade details to ensure trades can be matched within prescribed timelines.

(3) Trade-matching statement — A single trade-matching statement is sufficient for the general and all sub-accounts of the registered adviser or buy-side manager. A registered dealer or registered adviser may accept a trade-matching statement signed by a senior executive officer of a trade-matching party without further investigation and may continue to rely upon the statement for all future trades in an account, unless the dealer or adviser has knowledge that any statements or facts set out in the statement are incorrect. Mass mailings or emails of a trade-matching statement, or the posting of a single uniform trade-matching statement on a ~~Website~~ website, would be acceptable ways of providing the statement to other trade-matching parties. A registered firm may rely on a trade-matching party's representations that the trade-matching statement was provided to the other trade-matching parties without further investigation.

(4) Monitoring and enforcement of undertakings in trade-matching documentation — Registered dealers and advisers should use reasonable efforts to monitor compliance with the terms or undertakings set out in the trade-matching agreements or trade-matching statements in accordance with their policies and procedures.

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

Determination of appropriate policies and procedures

2.4 (1) *Best practices* — We are of the view that, when establishing appropriate policies and procedures, a party should consider the industry's generally adopted best practices and standards for institutional trade processing. It should also include those policies and procedures into its regulatory compliance and risk management programs.

(2) *Different policies and procedures* — We recognize that appropriate policies and procedures may not be the same for all registered dealers, registered advisers and other market participants because of the varying nature, scale and complexity of a market participant's business and risks in the trading process. For example, policies and procedures designed to achieve matching may differ among a registered dealer that acts as an "introducing broker" and one that acts as a "carrying broker".⁸ In addition, if a dealer is not a clearing agency participant, the dealer's policies and procedures to expeditiously achieve matching should be integrated with the clearing arrangements that it has with any other dealer acting as carrying or clearing broker for the dealer. Establishing appropriate policies and procedures may require registered dealers, registered advisers and other market participants to upgrade their systems and enhance their interoperability with others.⁹

Use of matching service utility

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

PART 3 INFORMATION REPORTING REQUIREMENTS

Exception reporting for registered firms

3.1

(a) ~~Part 4 of the Instrument requires a registered firm to complete and deliver to the securities regulatory authority Form 24-101F1 and related exhibits. Form 24-101F1 need only be delivered if less than 90 percent of the DAP/RAP trades (by volume and value) executed by or for the registered firm in any given calendar quarter have matched within the time required by the Instrument. Tracking of a registered firm's trade matching statistics may be outsourced to a third party service provider, including a clearing agency or custodian. However, despite the outsourcing arrangement, the registered firm retains full legal and regulatory liability and accountability to the Canadian securities regulatory authorities for its exception reporting requirements. If a registered firm has insufficient information to determine whether it has achieved the percentage target of matched DAP/RAP trades in any given calendar quarter, it must explain in Form 24-101F1 the reasons for this and the steps it is taking to obtain this information in the future.~~

(b) ~~Form 24-101F1 requires registered firms to provide aggregate quantitative information on their equity and debt DAP/RAP trades.~~

~~DAP/RAP trades in exchange-traded funds are reportable in the equities category of DAP/RAP trades. Form 24-101F1 should only be submitted for DAP/RAP trades for the type of security (equity or debt) that did not meet the 90 percent threshold by the relevant timeline. If a registered firm does not meet the threshold for both equity and debt DAP/RAP trades, then it should submit the Form for both equity and debt DAP/RAP trades (i.e., by completing both tables in Exhibit A of Form 24-101F1). If the firm does not meet the threshold only for one~~

⁸ See IIROC Member Rule 35 *Introducing Broker / Carrying Broker Arrangements*; IDPC Rule 2400 *Acceptable Back Office Arrangements*.

⁹ See Discussion Paper 24-401, at p. 3984, for a discussion of *interoperability*.

type of security (i.e., for equity but not debt, or for debt but not equity), it should only submit the Form for the one type of security, by completing only one of the tables in Exhibit A of Form 24-101F1. A registered firm must also provide qualitative information on the circumstances or underlying causes that resulted in or contributed to the failure to achieve the percentage target for matched equity and/or debt DAP/RAP trades within the maximum time prescribed by Part 3 of the Instrument and the specific steps they are taking to resolve delays in the trade reporting and matching process in the future. Registered firms should provide information that is relevant to their circumstances. For example, dealers should provide information demonstrating problems with NOEs or reporting of trade details to the clearing agency. Reasons given for the failure could be one or more matters within the registered firm's control or due to another trade matching party or service provider.

- (c) — The steps being taken by a registered firm to resolve delays in the matching process could be internally focused, such as implementing a new system or procedure, or externally focused, such as meeting with a trade matching party to determine what action should be taken by that party. Dealers should confirm what steps they have taken to inform and encourage their clients to comply with the requirements or undertakings of the trade matching agreement and/or trade matching statement. They should confirm what problems, if any, they have encountered with their clients, other trade matching parties or service providers. They should identify the trade matching party or service provider that appears to be consistently not meeting matching deadlines or to have no reasonable policies and procedures in place. Advisers should provide similar information, including information demonstrating problems with communicating allocations or with service providers or custodians.

Regulatory reviews of registered firm exception reports

3.2 —

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

Other information reporting requirements

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

Forms delivered in electronic form

3.4 — Registered firms are encouraged to complete their Form 24-101F1 on-line on the CSA's website at the following URL addresses:

In English: http://www.securitiesadministrators.ca/industry_resources.aspx?id=52

In French: http://www.autorites-valeurs-mobilieres.ca/ressources_professionnelles.aspx?id=52

Confidentiality of information

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

PART 4 REQUIREMENTS FOR MATCHING SERVICE UTILITIES

Matching service utility

4.1 (1) Part 6 of the Instrument sets out reporting, systems capacity, and other requirements of a matching service utility. For the purposes of the Instrument, the term *matching service utility* expressly excludes a clearing agency. A matching service utility would be any entity that provides the services of a post-execution centralized matching facility for trade-matching parties. It may use technology to match in real-time trade data elements throughout a trade's processing lifecycle. A matching service utility would not include a registered dealer who offers "local" matching services to its institutional investor-clients. In Québec, a person or company that seeks to provide centralized facilities for matching must, in addition to the requirements of the Instrument, apply for recognition as a matching service utility or for an exemption from the requirement to be recognized as a matching service utility pursuant to the *Securities Act* (Québec) or *Derivatives Act* (Québec). In certain other jurisdictions, in addition to the requirements of the Instrument, such person or company may be required to apply either for recognition as a clearing agency or for an exemption from the requirement to be recognized as a clearing agency.¹⁰

(2) A matching service utility would be viewed by us as an important infrastructure system involved in the clearing and settlement of securities transactions. We believe that, while a matching service utility operating in Canada would largely enhance operational efficiency in the capital markets, it would raise certain regulatory concerns. Comparing and matching trade data are complex processes that are inextricably linked to the clearance and settlement process. A matching service utility concentrates processing risk in the entity that performs matching instead of dispersing that risk more to the dealers and their institutional investor-clients. Accordingly, we believe that the breakdown of a matching service utility's ability to accurately verify and match trade information from multiple market participants involving large numbers of securities transactions and sums of money could have adverse consequences for the efficiency of the Canadian securities clearing and settlement system. The requirements of the Instrument applicable to a matching service utility are intended to address these risks.

Initial information reporting requirements for a matching service utility

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

- (a) the performance capability, standards and procedures for the transmission, processing and distribution of details of trades executed on behalf of institutional investors;

¹⁰ See, for example, the scope of the definition of "clearing agency" in s. 1(1) of the *Securities Act* (Ontario), which includes providing centralized facilities "for comparing data respecting the terms of settlement of a trade or transaction".

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

Change to significant information

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

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

4.4 (1) Ongoing quarterly information reporting requirements will allow us to monitor a matching service utility's operational performance and management of risk, the progress of interoperability in the market, and any negative impact on access to the markets. A matching service utility will also provide trade matching data and other information to us so that we can monitor industry compliance.

(2) Completed forms delivered by a matching service utility will provide useful information on whether it is:

- (a) developing fair and reasonable linkages between its systems and the systems of any other matching service utility in Canada that, at a minimum, allow parties to executed trades that are processed through the systems of both matching service utilities to communicate through appropriate, effective interfaces;
- (b) negotiating with other matching service utilities in Canada fair and reasonable charges and terms of payment for the use of interface services with respect to the sharing of trade and account information; and
- (c) not unreasonably charging more for use of its facilities and services when one or more counterparties to trades are customers of other matching service utilities than the matching service utility would normally charge its customers for use of its facilities and services.

Capacity, integrity and security system requirements

4.5 (1) The activities in section 6.5(a) of the Instrument must be carried out at least once a year. We would expect these activities to be carried out even more frequently if there is a significant change in trading volumes that necessitates that these functions be carried out more frequently in order to ensure that the matching service utility can appropriately service its clients.

(2) The independent review contemplated by section 6.5(b) of the Instrument should be performed by competent and independent audit personnel, in accordance with generally accepted auditing standards. Depending on the circumstances, we would consider accepting a review performed and written report delivered pursuant to similar requirements of a foreign regulator to satisfy the requirements of this section. A matching service utility that wants to advocate for that result must submit a request for discretionary relief.

(3) The notification of a material systems failure under section 6.5(c) of the Instrument should be provided promptly from the time the incident was identified as being material and should include the date, cause and duration of the interruption and its general impact on users or subscribers. We consider promptly to mean within one hour from the time the incident was identified as being material. Material

systems failures include serious incidents that result in the interruption of the matching of trades for more than thirty minutes ~~during normal business hours~~.

PART 5 TRADE SETTLEMENT

Trade settlement by dealer

5.1 Section 7.1 of the Instrument is intended to support and strengthen the general settlement cycle rules of the SROs and marketplaces. Current SRO and marketplace rules mandate a standard T+12 settlement cycle period for most transactions in equity and long-term debt securities.¹¹ If a dealer is not a participant of a clearing agency, the dealer's policies and procedures to facilitate the settlement of a trade should be combined with the clearing arrangements that it has with any other dealer acting as carrying or clearing broker for the dealer.

PART 6 REQUIREMENTS OF SELF-REGULATORY ORGANIZATIONS AND OTHERS

Standardized documentation

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

¹¹ See, for example, HROC Member Rule 800.27 and TSX Rule 5-103(1) IDPC Rule 4800.