Appendix A

General Summary of Changes to National Instrument 24-101 and related Companion Policy

Detailed explanations for many of the changes made to National Instrument 24-101— *Institutional Trade Matching and Settlement* (the Instrument or NI 24-101) and related Companion Policy 24-101CP (the CP) can be found in the Summary of Public Comments and CSA Responses at Appendix B.

The Instrument

Part 1 Definitions and Interpretation

Section 1.1 – "custodian"

- We amended the definition by
  - deleting the words "but does not include a registered dealer", and
  - including the words "or other custodial arrangement".

Section 1.1 – "DAP and RAP trade"

- We modified the term to "DAP/RAP trade" and made consequential amendments throughout the Instrument and CP.
- We amended the definition to clarify that a DAP/RAP trade is a trade
  - that is executed for a client trading account that permits settlement on a delivery against payment or receipt against payment basis through the facilities of a clearing agency, and
  - for which settlement is made on behalf of the client by a custodian other than the dealer that executed the trade.

Section 1.1 – "institutional investor"

- We simplified the definition to confirm that an investor that has been granted DAP/RAP trading privileges by a dealer is an institutional investor for the purposes of the Instrument.

Section 1.1 – "matching service utility"

- We amended the definition by deleting paragraph (b).

Section 1.1 – "regulated clearing agency"

- We shortened the term to "clearing agency" and made consequential amendments throughout the Instrument and CP (e.g., section 1.1 definition of "matching service utility", Part 5 *Reporting Requirements for Regulated Clearing Agencies*, Part 8 *Equivalent Requirements of Self-Regulatory Organizations and Others*, Form 24-101F2 *Regulated Clearing Agency Quarterly Operations Report of Institutional Trade Reporting and Matching*).
- We amended paragraph (c) of the definition to remove the requirement that a clearing agency in jurisdictions other than Ontario and Quebec be "a clearing

agency that is subject to regulation under the securities legislation of another jurisdiction in Canada". The amended paragraph now simply reads: "in every other jurisdiction, an entity that is carrying on business as a clearing agency in the jurisdiction".

Section 1.1 – "self-regulatory entity"

- We deleted this definition, which incorporated the definition found in National Instrument 21-101—*Marketplace Operation*. In its place, we are using the abbreviated term "SRO", which is a defined term found in National Instrument 14-101—*Definitions*. We made consequential amendments throughout the Instrument and CP (e.g., Part 7 *Trade Settlement*, Part 8 *Equivalent Requirements of Self-Regulatory Organizations and Others*).

Section 1.1 – "settlement day"

- We deleted this definition.

Section 1.1 – "trade-matching agreement" and "trade-matching statement"

- We added these new defined terms, which simplified the drafting of sections 3.2 and 3.4 as a result.

Section 1.1 – "T+1", "T+2", "T+3"

- We amended the definition of "T+1" to replace the term "settlement day" with "business day" and we added the defined terms "T+2" and "T+3" because they are frequently used in the Instrument's Forms and the CP.

Section 1.2(1)

- We amended this interpretive provision that describes the concept of *matching*
  - to refer specifically to "DAP/RAP trades" instead of "trades", and
  - to clarify that the matching process, if not effected through the facilities of a clearing agency, must include reporting the matched details and settlement instructions to a clearing agency.

Section 1.2(2)

- We amended this interpretive provision to clarify that a reference to a day in the Instrument (e.g., in the definitions of "T+1", "T+2" and "T+3") is to a twenty-four hour day from midnight to midnight Eastern time.

Part 2 Application

Section 2.1

- We amended the provision to clarify it and expand the types of transactions that are excluded from the application of the Instrument.

Part 3 Trade Matching Requirements

Sections 3.1 and 3.3

- We amended each of these provisions to:
  - delete the word “reasonable” and insert the words “maintains and enforces” immediately following the word “established”,
  - insert the word “designed” immediately following the words “policies and procedures”,
  - replace the word “practicable” with “practical”, and
  - delete paragraphs (a) and (b) and replace with “the end of T”.
- We added a new subsection to give trade-matching parties an extra day to accomplish the matching of DAP/RAP trades in certain circumstances. The policies and procedures may be adapted to permit matching to occur no later than the end of T+1 for a DAP/RAP trade that results from an order to buy or sell securities received from an institutional investor whose investment decisions are usually made in and communicated from a geographical region outside of the western hemisphere.

Sections 3.2 and 3.4

- We simplified each of these provisions by using the new terms “trade-matching agreement” and “trade-matching statement” defined in section 1.1.
- Related to the above, the definitions of “trade-matching agreement” and “trade-matching statement” in section 1.1 substantially reproduce the text found in previous paragraphs (a) and (b) of sections 3.2 and 3.4, except that minor changes were made to the text to reflect the changes made to sections 3.1 and 3.3 described above.

Part 4 Reporting Requirement for Registrants

Section 4.1

- We amended the provision to:
  - delete the words “a completed” immediately before “Form 24-101F1”, and
  - replace the percentage “98” in paragraphs (a) and (b) with “95”.

Part 5 Reporting Requirement for Regulated Clearing Agencies

- We amended the title.

Section 5.1

- We amended the provision to:
  - delete the words “a completed” immediately before “Form 24-101F2”, and
  - insert the words “through which trades governed by this Instrument are cleared and settled” after “clearing agency”.

Part 6 Requirements for Matching Service Utilities

Section 6.1

- We amended subsection (1) to delete the words “a completed” immediately before “Form 24-101F3”.

- We amended subsection (2) to clarify the provision and remove the reference to "no later than seven days after a change takes place".

Section 6.2

- We clarified the provision.

Section 6.3

- We replaced the word "practicable" with "practical" in subsection (2) and simplified subsections (1) and (2).

Section 6.4

- We amended subsection (1) to delete the words "a completed" immediately before "Form 24-101F5".
- We clarified subsection (2).

Section 6.5

- We clarified the provision and deleted clause (c)(ii).

Part 7 Trade Settlement

Section 7.1

- We amended subsection (1) to:
  - delete the word "reasonable" and insert the words "maintains and enforces" immediately following the word "established",
  - insert the word "designed" immediately following the words "policies and procedures", and
  - add at the end of the provision the words "or the marketplace on which the trade would be executed" to recognize that, in addition to SROs, certain marketplaces have rules that prescribe standard settlement timeframes (see, e.g., TSX Rule 5-103(1)).

Part 8 Equivalent Requirements of Self-Regulatory Entities and Others

- We amended the title.

Section 8.1

- We amended this section to clarify it and delete reference to "marketplace".

Section 8.2

- We clarified the section.

Part 10 Effective Dates and Transition

Section 10.1

- We amended this section to revise the date when the Instrument comes into force and delay the implementation of sections 3.2 and 3.4 and Parts 4 and 6, in most cases, by six months after the Instrument comes into force.

Section 10.2

- We amended the transitional provisions to reflect the changes to the timelines and the extension of the transitional phase-in periods, as more fully discussed in the Summary of Public Comments and CSA Responses at Appendix B.
- We added a special transitional provision for Part 6.

Forms 24-101F1, 24-101F2, 24-101F3 and 24-101F5

- We made various drafting changes to generally reflect the revisions made to the Instrument and improve and clarify the forms, including the following notable amendments:
  - We added new Exhibit A—*DAP/RAP trade statistics for the quarter* to Form 24-101F1 to require separately detailed information on the registrant's equity DAP/DAP trades entered and matched and debt DAP/DAP trades entered and matched for the calendar quarter.
  - We revised Exhibit B (previously Exhibit A) to Form 24-101F1 to provide more guidance on the information we seek on the underlying reasons for failing to achieve the percentage target of matched equity and/or debt DAP/RAP trades.
  - We revised Exhibit C (previously Exhibit B) to Form 24-101F1 to provide more guidance on the information we seek on the steps taken by the registrant to resolve trade matching delays or, if the registrant has insufficient information to determine the percentages for the purposes of section 4.1 of the Instrument, to require the registrant to describe the steps it has taken to ensure it can determine such percentages.
  - We revised Exhibit A to Form 24-101F2 to delete the requirement to complete separate tabular information for client trades settled by non-dealer custodians and client trades settled by dealer custodians and change the format of the tables more in line with the format currently being used and circulated by CDS on a voluntary basis.
  - We revised Exhibit B to Form 24-101F2 to change the title of the Exhibit and to delete the requirement to complete separate tabular information for client trades settled by non-dealer custodians and client trades settled by dealer custodians.
  - We revised Exhibit C (previously Exhibit D) to Form 24-101F5 to change the title of the Exhibit and amend the format of the tables more in line with the format currently being used and circulated by CDS on a voluntary basis.
  - We revised Exhibit D (previously Exhibit E) to Form 24-101F5 to change the title of the Exhibit and amend the format and headings of the table's columns.

The Companion Policy

- We made various drafting changes to generally reflect the revisions made to the

Instrument and improve and clarify the CP, including the following notable changes:

Part 1 Introduction, Purpose and Definitions

Section 1.2

- We added a footnote to remind ICPMs' of their obligations to ensure fairness in the allocation of investment opportunities among the ICPM's clients.

Section 1.3

- We expanded and improved the discussion in the CP on defined terms used in, and the scope of, the Instrument, including:
  - "Custodian" – the CP clarifies that the definition includes both a financial institution (a non-dealer custodian) and a dealer acting as custodian (a dealer custodian) and that they 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 they are acting as sub-custodian to a global custodian or international central securities depository.
  - "Institutional investor" – the CP clarifies that an individual can be an "institutional investor" if the individual has been granted DAP/RAP trading privileges (i.e., he or she has a DAP/RAP account with a dealer).
  - "DAP/RAP trade" – the CP confirms that 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.
  - "Trade-matching party" – the CP notes that: (i) an institutional investor, whether Canadian or foreign based, is captured by the definition "trade-matching party" for the purposes of the Instrument; (ii) a custodian that settles a trade on behalf of an institutional investor is also a trade-matching party and would be required to enter into a trade-matching agreement or provide a trade-matching statement; and (iii) 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 participant in the clearing agency or otherwise directly involved in settling the trade in Canada.

Part 2 Trade Matching Requirements

Section 2.3

- We expanded and improved the discussion in the CP on the documentation requirements, i.e., the "trade-matching agreement" and "trade-matching statement", including in the following areas:
  - The CP confirms that 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.

- The CP provides our expectations and general guidance on the terms and contents of a trade-matching agreement.
- The CP notes that mass mailings, emails and single uniform trade-matching statements posted on a Website are acceptable ways of providing or making available the statement.
- The CP provides our expectations and general guidance on the efforts of registrants to monitor and enforce compliance by trade-matching parties of the terms or undertakings in trade-matching agreements and/or trade-matching statements.

Part 3 Information Reporting Requirements

Section 3.1

- We amended this provision in line with changes to the Instrument and to provide guidance on how to complete Form 24-101FI.

Section 3.2

- We added a paragraph to this provision to set out our views on when we would consider a trade-matching party to not have properly designed policies and procedures in place or to be inadequately complying with such policies and procedures.

Section 3.4

- We simplified the discussion on the electronic delivery of the Forms under the Instrument.
- We moved the second element of this provision dealing with the confidentiality of information delivered to the securities regulatory authority under the Instrument into a new section 3.5—*Confidentiality of information*. We have expanded the confidentiality treatment to all forms under the Instrument.

Part 4 Requirements for Matching Service Utilities

Section 4.2

- We amended the factor in paragraph (e) to make it clear that, where more than one matching service utility (MSU) is operating in the Canadian markets, our main objective will be to consider whether adequate interoperability arrangements exist among the MSUs.

Section 4.5(2)

- We added a statement that, depending on the circumstances, we would consider accepting a review performed on an MSU and written report delivered pursuant to similar requirements of a foreign regulator to satisfy the requirements of section 6.5(b) of the Instrument.

Part 6 Equivalent Requirements of Self-Regulatory Entities and Others

- We amended the title.

Section 6.1

- We added this provision to clarify that an SRO may require its members to use, or recommend that they use, a standardized trade-matching agreement or trade-matching statement prepared or approved by the SRO, and may negotiate with other trade-matching parties and industry associations to agree on the form of standardized trade-matching agreement or trade-matching statement to be used by all relevant sectors in the industry (dealers, buy-side managers and custodians).

Part 7 Transition

Section 7.1

- We amended the tabular information under this section to reflect the changes to the Instrument, i.e., delaying the implementation of sections 3.2 and 3.4 and Parts 4 and 6 of the Instrument by at least six months after the Instrument comes into force, changing the timeline from "7:30 p.m. on T" to "end of T", and extending the transitional phase-in periods, as more fully discussed in the Summary of Public Comments and CSA Responses at Appendix B.