ANNEX B
Summary of Public Comments and CSA Responses
on NI 24-101 and the Companion Policy

List of Commenters

1. Glenn MacPherson
2. Omgeo
3. Northern Trust Company
4. RBC Dexia Investor Services
5. State Street Corporation
6. CIBC Mellon
7. Investment Industry Association of Canada
8. RBC Dominion Securities Inc.
9. CDS Clearing and Depository Services Inc.
10. Mackenzie Financial Corporation
11. Investment Counsel Association of Canada
12. TD Waterhouse
13. CIBC
14. Laurentian Bank
15. B. White

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Summary of Comments and Responses

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General comments	
Nine commenters supported the ongoing efforts of the CSA to enhance the efficiency of institutional trade matching (ITM) processes. They also recognized the positive impact that NI 24-101 has had on ITM rates since its implementation in 2007. In particular, some commenters acknowledged the benefits of the Instrument, which strives to maintain Canada's market competitiveness, reduce credit risk, decrease operational risk, and increase productivity. During the past five years, significant industry progress has been achieved for both trade entry and trade confirmation rates. The Instrument has made a positive impact on business conduct practices and overall risk management of all counterparties involved. In spite of the dramatic improvements in ITM rates, other commenters stressed that there is more work to be done to meet the current matching rates. One commenter suggested that market turmoil in the past two years has demonstrated that principles-based rules are inadequate and, consequently, the CSA should adopt a new prescriptive approach in this area. Two commenters were of the view that defined penalties for non-compliance with NI 24-101 should be considered by the CSA. An alternative would be to encourage compliance with the Instrument through public reporting of the names of registered firms that have the lowest matching rates. One commenter encouraged co-operation among the regulators of the trade-matching parties - the CSA for advisers, the Investment Industry Regulatory Organization of Canada (IIROC) for dealers, and the Office of the Superintendent for Financial Institutions (OSFI) for custodians - to ensure that all trade-matching parties are complying with their obligations under NI 24-101.	We thank the commenters for their remarks on the CSA's ongoing efforts to implement a framework for the timely and efficient processing and settlement of trades. As a principles-based rule, NI 24-101 was successful in encouraging market participants to address middle and back office issues and generally improving clearing processes and systems. Statistically, the ITM rates improved significantly for both debt and equity trades since the implementation of the Instrument in 2007. We note that a violation of the requirements of NI 24-101 is a breach of provincial securities laws, which can lead to, among other things, penalties, fines and administrative costs. We share the commenter's viewpoint that co-operation among the regulators is important, and the CSA will continue to work with IIROC and OSFI where appropriate.
Question 1 – For what period should the requirement to match no later than the end of T be deferred? Should the requirement be deferred indefinitely until such time as global markets shorten their standard T+3 settlement cycles? Please provide your reasons.	
Eleven commenters were of the view that the requirement to match no later than the end of T be deferred indefinitely until such time as North American markets shorten their standard T+3 settlement cycles. Reasons cited include: • Only a compression of the settlement cycle would provide the business rationale to invest • in the necessary allocation of resources for	While we still encourage industry to work towards a same-day ITM goal, we acknowledge that a regulatory requirement to achieve this goal may no longer be appropriate at this time. As there are no definite plans to shorten the T+3 settlement cycle in global markets, we have decided to maintain the current ITM noon on T+1 deadline. Therefore, NI 24-101 will no longer provide for a transition to an ITM deadline of midnight on T. However,

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the necessary technological upgrades. In the current settlement cycle there is no clear benefit to matching trades 12 hours earlier: it is unclear how it would mitigate any settlement risk or further enhance current settlement efficiency. • The Instrument was originally intended to address the potential of a shortened settlement cycle; however, the likelihood of such an event has diminished in recent years. An indefinite extension of the current matching requirement would eliminate the need for further deliberations on the effectiveness of matching on T and would allow dealers to utilize their technology resources more efficiently. • The current settlement rate / failure rate does not justify the costs in relation to the benefits. • Efficiencies gained from moving the matching requirement to midnight on T would be outweighed by potential technological and other costs related to advancing the matching deadline. • The Instrument has successfully promoted substantial improvements to the prerequisite trade reporting and subsequent matching rates. As global markets continue to recognize T+3 settlement cycles, the multilateral investments required to advance to trade date targets would be of limited value. • The Instrument loses credibility if it continues to defer the deadline, and therefore it should be tied to the settlement cycle. In the current T+3 environment, the T+1 matching at noon is most appropriate as it is aggressive yet allows for sufficient time for researching unmatched transactions. • As the prime client of the MSUs, the buy-side directs upgrades to processing and will only hasten changes if regulated through assessable penalties or the compression of the settlement period. Two commenters expressed concern that momentum may be lost and lead to a deterioration of the positive impacts of the Instrument. One commenter encouraged the CSA to shorten the proposed five year delay if it can be done without introducing risk into the post-trade process. The five year postponement is viewed as a lengthy delay and introduces the risk that market participants will relax their efforts to make the necessary changes. One commenter supported the amendment of the same-day matching target to 2015 because there is still room to optimize processes and the use of matching engines in the current framework. One commenter recommended an analysis be	we would propose to consider re-introducing the midnight on T matching deadline into the Instrument through subsequent amendments if circumstances were to change. For example, as noted in the CSA Request Notice, a change in circumstances would include a shortening of standard T+3 settlement cycles in global markets.

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undertaken by CDS and other parts of the clearing and settlement chain prior to making a decision to defer permanently same-day ITM.	
Question 2 – We seek as much information as possible from stakeholders on the costs and benefits of the requirement to match a DAP/RAP trade no later than the end of T, including any available empirical data. What would be the benefits of moving to matching by midnight on T on July 1, 2015?	
Ten commenters were of the view that there were no benefits to moving to matching by midnight on T in July 2015 for, among others, the following reasons: • Such a change can only be justified on a cost-benefit basis by the compression of the settlement period in North America. • There was little or no benefit to moving to midnight on T, such as no significant improvement to the efficiency of the settlement process or risk mitigation. Moreover, the added costs for technology and manpower will be difficult to justify in the current financial environment. • Small and mid-sized firms may be negatively impacted in their overall budget and ability to remain profitable owing to limited resources. It may be cost prohibitive for such firms to meet the requirements. One commenter was unable to quantify the benefit of moving to matching on T as the majority of risk was already mitigated through the implementation of technology to meet the current target. • One commenter cited the low percentage of fails as sufficient reason not to incur added expenses through technology enhancements. One commenter suggested significant savings to date from the Instrument, as well as potential additional savings from further reducing fail rates in the Canadian market, if we moved to same-day ITM. Same-day ITM could contribute cost savings to the industry of a minimum $173.25 million CAD per year. Speeding up the affirmation rate would bring the following benefits: • Fewer fails/reclaims/claims • Reduced operational burden • Reduced operational risk • Reduced market error risk • Lower costs, including FTE costs (via expanded capacity) • Higher rates of STP • Alignment with global regulatory reform • Leverage investment in existing technology • Higher customer satisfaction	We acknowledge the views of many who did not see an advantage to matching by midnight on T in the current financial climate. In addition, we recognize that there is little empirical data available.

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Question 3 – What are the costs and benefits of extending the current industry ITM processing times to allow market participants to process their trades beyond the CDS 7:30 p.m. cut-off time until late in the evening on T?	
The majority of commenters were not in favour of extending the current processing times. Reasons cited include the following: • There is sufficient time to meet the current noon on T+1 trade matching targets. • Costs would be high to implement required technological modifications and increase staffing if CDS trade processing were to extend past the current 7:30 p.m. cut off time. The percentage of trades matched would be small, thus the benefits would be minimal. • A majority of dealers say that they would be unable to estimate fully the potential costs they would incur if there is an extension of the CDS processing times. Firms are limited by the availability of internal and external systems, the negative impact of having to staff for the extended time frame, and the potential inability to have contact and system availability with both clients and matching participants for the trades. Also, the ability to process trades beyond the CDS 7:30 p.m. cut off time will be dependent on external systems providers, CDS limitations, as well as the assurance of the availability of contacts for all market participants for the transaction. CDS does not expect a substantial improvement in the current matching rates by shutting the system down later in the evening. The current 7:30 p.m. shutdown allows CDS to complete its overnight batch processes on a timely basis and aligns with the timelines of external parties—participants, service bureaus, third party vendors, and exchanges. Two commenters were of the view that more investigation is required because of the multiple dependencies beyond institutional trade matching. One commenter did not see a link between the ITM process and the CDS process. While CDS processing is suspended for batch processing, it does not prevent counterparties from completing the match affirmed process through an MSU.	We acknowledge the comments stating that there would not be substantial improvements in the current matching rates if the system were shut down later than 7:30 p.m. Consequently, we are not pursuing this matter at this time.
Question 4 – What are the costs and benefits of having a specific industry-wide trade identifier to enable dealers to track and segregate their non-western hemisphere trades from western hemisphere trades?	
The majority of commenters did not see a reason to impose a specific industry-wide trade identifier to segregate the trades. Reasons cited include the	Based on the comments received, we do not propose to pursue this matter.

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following: • There would be little benefit as the distinction between these types of trades is done internally at the custodian level. • One commenter built internally the necessary oversight tools to distinguish between these types of trades. The cost of building an industry specific trade identifier would significantly outweigh any additional benefit. • The benefit does not justify the investment required and the related operating costs involved. The majority of trades are within North America and many dealers already have in-house systems and processes to deal with this matter. • Non-western trade-matching parties are generally efficient and thus are confirmed on a timely basis. • CDS functionality may be limited and dependent on participant submissions. • The process would be dependent on the development of a unique identifier at CDS, necessary system enhancements of all participants, and ensuring that the identifier is input on all transactions. Any related costs would be absorbed by all participants for the benefit of only a few. Consequently, an industry wide trade identifier would be of little benefit. CDS proposes to work with its participants to make changes if requested. It is noted that the overall benefit would be more accurate reporting of matching rates. Three of the commenters stated that the classification of western hemisphere and non-western hemisphere trades should be changed to North American and non-North American trades to alleviate confusion. One commenter notes the lack of worldwide standard industry mechanisms to identify location of market participants. The commenter urges regulators to participate in global discussions and work towards an internationally harmonized solution. Only one commenter suggests a possible benefit of cost reduction if registered firms meet the target and do not have to file exception reports.	However, we agree that the distinction between western hemisphere trades and other trades is confusing. Consequently, we have decided to amend the Instrument to distinguish trades in a defined North American region from trades elsewhere.
Question 5 – Would extending the current requirement to match no later than noon on T+1 to a new deadline of 2 p.m. on T+1 help address current ITM processing delays and problems for the next two years?	
With only one exception, the commenters who responded to this question did not support the extension of the requirement to match no later than noon on T+1 to a new deadline of 2 p.m. on T+1. Reasons cited include the following:	We acknowledge the strong views that this change, on an interim basis, would necessitate further costs, and consequently will not implement this proposal.

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• The costs to make the system changes, which in any case would be of an interim nature and necessitate further costs for reverting back to the current noon on T+1 standard in July 2012. • The majority of advisers and dealers with significant trading volumes would prefer to use their scarce resources to improve the current matching rates. • The extension to 2 p.m. would not be consistent with the purpose of the Instrument, which is to reduce risk (e.g., earlier detection and correction of erroneous transactions). • Moving the deadline temporarily tarnishes the credibility of the Instrument as it appears to be flexible and ever changing. CDS noted that feedback it received suggested concerns about the costs for the initial technology change and subsequent reversion after the two year period expires. However, it noted that such a change may assist some dealers in meeting the current targets. CDS pledged to work with its participants to implement the changes if necessary and stated that the cost to CDS would be minimal. In addition, CDS would share with the Working Group its analysis of matching rates at both 2:00 p.m. and 7:30 p.m. on T+1. One commenter was of the view that a permanent adjustment of the deadline to 1 p.m. would accommodate smaller firms that are finding the current targets challenging, and not require further technology modifications in two years. Only one commenter viewed the proposed changes as beneficial by providing an interim step to meet the threshold and reduce the incidence of mandatory filings.	
Other amendments	
Exception reporting threshold percentages Two commenters maintain that an eventual move to matching at midnight on T should be accompanied by a decrease in the matching threshold to a maximum of 80% to 85%. One commenter is of the view that it would be more economical and equally beneficial to reduce the matching target threshold rates rather than introduce an extended temporary time frame parameter.	See our response to comments on Question 1 above. As proposed in the CSA Request Notice, the references to “95 percent” in Part 4 of the Instrument governing the exception reporting requirement are being changed to “90 per cent”.
Method for determining threshold percentages A number of commenters who responded to the question noted that they would be able to provide	We have decided not to proceed with these proposed amendments owing to the benefits of the current method for determining threshold percentages, as suggested by stakeholders.

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reporting as set out in the proposal. However, many registered firms would continue to measure both the total number of trades and total value of trades for both debt and equity. Reasons cited include the following: • Both measurements have merit: volume is an indication of the quality of processing and value is an indication of the impact for exceptions. • It will impede the ability of dealers to focus on clients who process a limited number of equity trades with a large dollar value and a large number of debt trades for a small dollar value. • There will be new challenges in dealing with clients who have few equity trades with a large dollar value or a large number of debt trades with a small dollar value. The current format provides the leverage and momentum to ensure accuracy and efficiency for the timely matching of these transactions. • Certain firms use the processes for purposes other than measuring compliance with NI 24-101. • Any changes for reporting to clients would necessitate client re-education which may not be perceived as a progressive use of limited resources. Although one commenter supported the amendment with respect to equities, the same method should be applied to debt trades. Trade matching is a transactional process and therefore the value of the trade should be of no significance. One commenter fully concurred with the proposed modifications as value is a better measurement for debt trades as debt trade volumes are generally low and are not good indicators of efficient matching. Conversely, owing to the high number of equity trades, volume is a better indicator of efficient matching than value. Another commenter agreed that the approach was consistent with focusing on the areas of greatest risk. Registered firms should continue to complete all of the reporting as initially required by the Instrument; however, reporting to the regulators should be limited to not meeting the prescribed targets based on the number of equity trades and the volume of debt trades respectively.	
Amending the definition of trade-matching party Six commenters support the amendment to clarify which parties fall within the definition of trade-matching party. However, two of the commenters believe further	Paragraph (a) of the definition is being amended to include a registered adviser only where it is acting for the institutional investor in *processing* the trade. Paragraph (b) of the definition is being amended by excluding institutional investors that are (i) individuals or (ii) persons and companies with total securities under administration or management not exceeding $10 million. The language

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explanations may be warranted: (a) Whether a duty is being imposed on dealers to monitor an institutional investor to ensure assets under administration or management are less than $10,000,000. (b) The definition should be amended to include all accounts for “any person or company other than an individual”.	for the latter exclusion is different from the version proposed in the CSA Request Notice. We made a slight modification to ensure that the language is similar to existing paragraph (5) of the definition “Institutional Customer” in the dealer member rules of the Investment Industry Regulatory Organization of Canada (IIROC). As dealers are already required under IIROC rules to monitor the accounts of non-individuals with total securities under administration or management exceeding $10 million, we do not expect this to be an additional burden for dealers.
Amending the trade matching documentation requirements Three commenters were in agreement with the proposed amendments to the trade matching documentation requirements. One commenter in particular noted the flexibility offered in circumstances where a counterparty has sound practices and but may not understand the importance of completing the trade-matching agreement or providing the trade-matching statement.	Sections 3.2 and 3.4 of the Instrument are being amended to make it clear that the documentation requirements of such sections support, and are part of, the primary ITM policies and procedures requirements of sections 3.1 and 3.3 of the Instrument.
Provisions governing non-western hemisphere institutional investors Two commenters agreed with the proposed amendments to include an institutional investor whose settlement instructions are usually made in and communicated from a geographical region outside of the western hemisphere.	As proposed in the CSA Request Notice, we are making amendments to subsections 3.1(2) and 3.3(2) of the Instrument to clarify that an institutional investor whose *settlement instructions* are usually made in and communicated from outside a defined geographical region be included in these subsections. In addition, we are amending these provisions so that the defined geographic region is now described as the “North American region”, which will be defined in the Instrument. We agree with a number of commenters who suggested that the difference between what is western hemisphere and what is non-western hemisphere is not clear.