



CURRENT DEVELOPMENTS

Canadian Securities Matters

Q2 2024

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Amendments to the Rules, Operations Manual and Risk Manual of the Canadian Derivatives Clearing Corporation to move to T+1 Settlement

On March 27, 2024, Following the Rule protocol between the Ontario Securities Commission (the OSC) and the Canadian Derivatives Clearing Corporation (CDCC), the OSC approved the amendments to the CDCC Rules, Operations Manual, and Risk Manual concerning T+1 settlement.

Ontario Instrument 32-508 Not-For-Profit Angel Investor Group Registration Exemption (Interim Class Order); Ontario Instrument 32-509 Early-Stage Business Registration Exemption (Interim Class Order); Ontario Instrument 45-509 Report of Distributions under the Self-Certified Investor Prospectus Exemption (Interim Class Order)

On May 9, 2024, the OSC made three time-limited orders under the subsection of 143.11(2) of the Securities Act to further support early-stage capital raising in Ontario:

- Angel investor group registration exemption;
- Early-stage business registration exemption; and
- Self-certified investor reporting exemption.

(collectively, the Early-stage capital exemptions)

The Angel Investor group registration exemption will allow not-for-profit, Ontario-based angel investor groups to engage in the following activities without being registered:

- identify and introduce Ontario early-stage businesses seeking capital to its members;
- make information on Ontario's early-stage businesses seeking capital available to its members;
- hold regular meetings for Ontario early-stage businesses to present their business to its members;
- facilitate its members' due diligence in Ontario early-stage businesses;
- keep its members up-to-date on the Ontario early-stage businesses that members have invested in; and
- provide educational resources.

The Early-stage business registration exemption will allow an eligible early-stage business that is raising capital on its own or through a dealer to engage in permitted marketing activities, including posting the terms of an offering on its website, announcing the offering on social media, and sharing the terms of the offering during a demo day organized by a government body, not-for-profit group, academic institution, angel investor group, incubator, accelerator or innovation hub.

The Self-certified investor exemption provides an exemption, on an interim basis, to businesses raising capital under Ontario Instrument 45-507 Self-Certified Investor Prospectus Exemption, from the requirement to file a completed Form 45-106F1 Report of Exempt Distribution (together with the completed Confirmation of Qualifying Criteria and the applicable fee, within 10 days of the distribution), and allows the use of the streamlined Form 45-509F1 to report distribution without associated fees. Such Issuers are required to report distributions quarterly using Form 45-509F1 Alternative Report of Exempt Distribution within 30 days of the end of the reporting period.

The Order comes into effect on May 9, 2024. The Angel Investor Group Registration Exemption and the Early-Stage Business Registration Exemption each remain in effect until October 25, 2025, unless extended by the OSC. The Self-Certified Investor Reporting Exemption remains in effect until the earlier of October 25, 2025, or the effective date of an amendment to NI 45-106 that addresses substantially the same matter.

OSC Rule 51-506 - Extension in Ontario to CSA Blanket Order 51-930 Exemption from the Director Election Form of Proxy Requirement

On April 3, 2024, the OSC made a rule to extend the existing relief issued on January 31, 2023, by CSA Blanket Order 51-930 Exemption from the Director Election Form of Proxy Requirement, further by 18 months period, from July 31, 2024, to January 31, 2026. The rule exempts CBCA-incorporated reporting issuers from the requirement to specify that securities be voted or withheld from voting in respect of the election of directors, as required by subsection 9.4(6) of National Instrument 51-102 Continuous Disclosure Obligations (NI 51-102) where the reporting issuers comply with Majority Voting Amendments.

Amendments to National Instrument 81-102 Investment Funds and Changes to Companion Policy 81-102CP to National Instrument 81-102 Investment Funds to Accommodate a Range of Settlement Cycles for Mutual Funds

On May 23, 2024, The Canadian Securities Administrators (CSA) published this notice to inform that the CSA is adopting amendments to National Instrument 81-102 Investment Funds (NI 81-102) and changes to Companion Policy 81-102CP to National Instrument 81-102 Investment Funds.

The purpose of the amendment/changes is to accommodate a range of settlement cycles, particularly for those mutual funds that voluntarily decide to shorten the settlement cycle for the purchases and redemptions of their securities from T+2 to T+1 when the underlying assets held by the fund move to a T+1 settlement cycle.

The Amendments also introduce a change to paragraph 9.4(4)(a) of NI 81-102 to require a mutual fund that voluntarily decides to shorten the settlement cycle for purchase or redemption of its securities from T+2 to T+1 to redeem its securities for non-payment on the next business day after the reference settlement date of the purchase order, which would be on T+2 rather than T+3 as currently required.

The Final Amendments/changes will come into force on August 31, 2024 subject to necessary approvals obtained.

OSC Staff Notice 81-735 Cash Collateral Use for Delayed Basket Securities in ETF Subscriptions

On May 22, 2024, the OSC staff published this notice regarding the use of cash collateral for ETF in-kind subscriptions wherein a purchaser (i.e., a designated broker or authorized participant) agrees to deliver a basket of specified securities to an ETF manager to fulfill the payment for the subscribed ETF units. In some cases, one or more securities from the basket of securities may not be delivered on the settlement date.

The delay in deliveries can occur due to a mismatch between the settlement cycle of Basket Securities and an ETF's primary market settlement cycle, or due to delays in deliveries from transactions such as purchases from market participants, sales by their clients, or securities loan recalls, or as a result of corporate action events (such as a takeover).

To prevent such failed subscription transactions, some participants interpret NI 81-102 to permit the practice to use a minimum of 102% cash collateral to temporarily satisfy the

payment obligation as set out in subsection 2.12(1) of NI 81-102. This collateral is marked to market daily until the securities are delivered.

The OSC believes that such practice to facilitate the issuance of ETF units in the case of Delayed Basket Securities is permissible under NI 81-102. Staff further stressed that the fund manager should ensure that the use of cash collateral does not adversely affect delivery risks to the ETF.

Amendments to National Instrument 24-101 Institutional Trade Matching and Settlement

On May 27, 2024, the amendments made by the OSC to National Instrument 24-101 Institutional Trade Matching and Settlement came into force. The amendments were made to the standard settlement cycle for equity and long-term debt market trades in Canada from two days after the date of trade (T+2) to one day after the date of a trade (T+1) and to coincide, as much as possible, with parallel changes in the United States.

CSA Multilateral Staff Notice 25-312 Reminder of Cessation of CDOR on June 28, 2024

On June 6, 2024, the Staff of the OSC, Autorité des marchés financiers, British Columbia Securities Commission and Alberta Securities Commission published this notice to remind market participants that the Canadian Dollar Offered Rate (CDOR) will cease to be published after a final publication on Friday, June 28, 2024 (the CDOR Cessation Date)

CSA Notice Regarding Coordinated Blanket Order 31-930 Exemption to allow Exempt Market Dealer Participation in Selling Groups in Offerings of Securities under a Prospectus

Effective June 20, 2024, the securities regulatory authorities in Alberta, British Columbia, Nova Scotia, Ontario, Québec and Saskatchewan (participating jurisdictions) have implemented a temporary relief (through local blanket orders) to exempt market dealers from the restrictions set out in subsection 7.1(2)(d) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, so that they may act as a dealer in a distribution of securities made under a prospectus, provided that certain conditions are satisfied.

Exempt market dealers that intend to rely on the Blanket Orders are required under National Instrument 33-109 Registration

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Information to report a change in business activity by filing a Form 33-109F5 Change of Registration Information indicating that they will be participating as a member of selling groups in prospectus offerings.

This exemption remains in effect until December 20, 2025, unless extended by the participating jurisdiction.

Canadian securities: Proposed guidance

Proposed Amendments to Multilateral Instrument 25-102, OSC Rule 25-501 (Commodity Futures Act) Designated Benchmarks and Benchmark Administrators and Proposed Changes to Companion Policy 25-102, 25-501 (Commodity Futures Act) Designated Benchmarks and Benchmark Administrators

On May 30, 2024, certain members of the CSA published for a 90-day comment period, proposed amendments to Multilateral Instrument 25-102 Designated Benchmarks and Benchmark Administrators, as well as proposed changes to Companion Policy 25-102 Designated Benchmarks and Benchmark Administrators, to revise the requirements in MI 25-102 for assurance reports.

The OSC also published for a 90-day comment period, proposed amendments to Ontario Securities Commission Rule 25-501 (Commodity Futures Act) Designated Benchmarks and Benchmark Administrators, as well as proposed changes to 25-501 (Commodity Futures Act) Designated Benchmarks and Benchmark Administrators to revise the requirements in OSC Rule 25-501 for assurance reports which are based on, and consistent with the proposed amendments and changes to the MI 25-102 and CP 25-102.

The Proposed Amendments are intended to address technical issues encountered by accounting firms that were engaged to prepare assurance reports in 2022 for Refinitiv Benchmark Services (UK) Limited (RBSL) as the designated benchmark administrator of CDOR and the six Canadian banks that are benchmark contributors to CDOR.

The assurance report provisions in the existing version of MI 25-102/ OSC Rule 25-501 only apply to designated commodity benchmarks, designated critical benchmarks and designated interest rate benchmarks. The Proposed Amendments include a new assurance report provision (proposed section 13.1 of MI 25-102/ OSC Rule 25-501) that would apply to any designated benchmark that is not a designated commodity benchmark, a designated critical benchmark or a designated interest rate

benchmark (e.g. if the Commission were to designate a crypto asset benchmark that is not a commodity benchmark or a term rate benchmark that is not an interest rate benchmark).

The comment period expires August 28, 2024.

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