



MEMBER REGULATION



notice

ATTENTION:
Ultimate Designated Persons
Chief Financial Officers
Panel Auditors

Please distribute internally to:
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Operations
Senior Management
Trading Desk

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MR0495

September 28, 2007

Joint Notice of the IDA and CDS Clearing and Depository Services Inc. (CDS) on Institutional Trade Matching and Settlement, and Broker to Broker Trade Matching

This joint IDA and CDS notice to IDA Members and CDS Participants is to assist you in complying with National Instrument 24-101 and its Companion Policy 24-101 (for institutional trades), and IDA Regulation 800.49 (for broker to broker trades). Although these regulations for institutional trades and broker to broker trades are different and should not be confused, they are discussed together in this joint notice, because the IDA has received numerous questions from its Members to clarify whether particular trades are client (institutional trades) or broker to broker trades for the purpose of these regulations.

As shown in Enclosure #1, there are 28 trade types in CDSX and for each of them there is a code, a description and a trade class. A code is unique to each trade type and generally, from the description, you will be able to determine which code to use for your particular trade. However, because some codes are specific to the parties involved in a trade (for example code “C” for client) and some codes are specific to the type of transaction (for example code “NI” for new issue allotments), it is possible that you and other parties to a trade could be using different codes for the same institutional trade or broker to broker trade.

This is an issue, because a code mismatch between you and the other parties to a trade may cause you to miss your trade matching or trade reporting deadline as the trade would not be able to match at CDS if this mismatch is not resolved in a timely manner. This notice reviews a number of examples of institutional trades and broker to broker trades in order to clarify the code that you and the other parties should use for each trade, when there is a possibility that another code could be mistakenly used.

Although our goal is to provide you with examples of trades that you will likely face with this code issue, there will be situations where the code to use is unclear for a particular trade, and you and the other parties to the trade must work together to resolve this issue in a timely manner.

INSTITUTIONAL TRADE MATCHING AND SETTLEMENT (NI 24-101)

Overview

For all institutional trades that are subject to National Instrument 24-101 (NI 24-101), you and the other parties to each trade must use the code “C”.

Institutional trades that are subject to NI 24-101 are “DAP/RAP trades” as defined in NI 24-101. Generally, DAP/RAP trades are trades that are settled by a custodian (other than the dealer executing the trade), on behalf of the client, through a clearing agency in Canada (for example, CDS). Certain trades are excluded from the application of NI 24-101, even if they are considered as institutional trades by the counterparties. These excluded trades are described below in Example 1, together with the appropriate code to use when entering such trades into CDSX.

Example 1 – Trades that are not subject to NI 24-101 as stated in PART 2 (APPLICATION) of NI 24-101

Trades not subject to NI 24-101	Code to use
(a) A trade in a security of an issuer that has not been previously issued or for which a prospectus is required to be sent or delivered to the purchaser under securities legislation.	NI
(b) A trade in a security to the issuer of the security, <ul style="list-style-type: none"> ▪ Examples of these trades are share buy-backs, purchases for cancellation or redemption, issuer bids, exchanges in accordance with terms of securities, etc. ▪ * Although these trades are not subject to NI 24-101 and cannot be excluded from the NI 24-101 reporting process by CDS, if you generated them and coded them as “C”, you should still code them as “C” as this is the most practical option available at this time. ▪ * If you trigger any of the reporting requirements in NI 24-101 and these trades are the reason for this, you can either decide: <ul style="list-style-type: none"> ▪ (i) to file Form 24-101F1 and explain in “Exhibit B – Reasons for non-compliance” of the form the reason you triggered the reporting requirement; or ▪ (ii) not to file Form 24-101F1, but be ready to provide upon request from the regulator, adequate support for your decision not to file. ▪ * We will update our guidance on these trades once a more permanent solution is available. 	C*
(c) A trade made in connection with a take-over bid, issuer bid, amalgamation, merger, reorganization, arrangement or similar transaction.	C*

Trades not subject to NI 24-101	Code to use
<ul style="list-style-type: none"> ▪ * Please see details in (b) above. 	
(d) A trade made in accordance with the terms of conversion, exchange or exercise of a security previously issued by an issuer. <ul style="list-style-type: none"> ▪ * Please see details in (b) above. 	C*
(e) A trade that is a securities lending, repurchase, reverse repurchase or similar financing transaction.	DPL RPA PRA SRA SPR
(f) A trade to which National Instrument 81-102—Mutual Funds applies.	Not applicable to CDSX
(g) A trade to be settled outside Canada.	Not applicable to CDSX
(h) A trade in an option, futures contract or similar derivative.	Not applicable to CDSX
(i) A trade in a negotiable promissory note, commercial paper or similar short-term debt obligation that, in the normal course, would settle in Canada on T. <ul style="list-style-type: none"> ▪ Although these trades are not subject to NI 24-101, they would be coded as “C”, because CDS would be able to identify them as same day trades and would exclude them from the NI 24-101 reporting process. 	C

Example 2 – A jitney trade on the exchange executed by an IDA Member for a non-IDA Member who is not a direct participant in CDS or the CDS Trade Matching service

If you execute a jitney trade on an exchange for a non-IDA Member who is not a direct participant in CDS or the CDS Trade Match service, the second portion of the trade i.e. the trade between you and the non-IDA Member that is not reported by the exchange to CDS must be coded “C”. This would be a DAP/RAP trade because the trade between you and the non-IDA Member is settled through the facilities of CDS between you and a CDS participant (custodian) that is holding assets at CDS on behalf of either the non-IDA Member or a third party investor for whom the non-IDA Member is trading. In this example the trade is subject to NI 24-101.

BROKER TO BROKER TRADE MATCHING (IDA REGULATION 800.49)

Overview

For all broker to broker trades that are subject to IDA Regulation 800.49 (the Regulation), you and the other IDA Member to each trade must use the code “DP” Direct Participant. The Regulation establishes requirements for broker to broker non-exchange trades in equity or debt securities that are CDS eligible with the exception of new issues, repos, and IPOs. The Regulation requires that these trades be reported to an Acceptable Trade Matching Utility within one hour of their execution.

IDA Members that use an Acceptable Trade Matching Utility other than the CDS Trade Matching service are not required to use the code “DP” for these trades as the Acceptable Trade Matching Utility will likely have its own code. The IDA maintains a list of Acceptable Trade Matching Utilities for the purposes of the Regulation.

Example 1 – A trade between an IDA Member and another direct participant (a non-IDA Member) of CDS who uses the CDS Trade Matching service

If you trade with another direct participant (a non-IDA Member) of CDS that is not an IDA Member and the trade is coded “DP”, the trade will not affect your individual broker to broker monthly summary report or the street’s broker to broker monthly summary report that you receive from the IDA as the IDA currently filters out these trades at the CUID level after it receives them from CDS. These trades are filtered out, because they are not subject to the Regulation.

Example 2 – A non-exchange trade between two IDA Members involving new issues, repos or IPOs

If you execute a non-exchange trade involving new issues, repos or IPOs with another IDA Member you must use the code “NI”, “RPA” or “NI”, respectively. These trades should not be coded “DP”, because these trades are not subject to the Regulation and cannot be filtered out by the IDA.

Example 3 – A jitney trade on the exchange executed by an IDA Member for another IDA Member

If you execute a jitney trade on the exchange for another IDA Member, the second portion of the trade i.e. the trade between you and the other IDA Member that is not reported by the exchange to CDS must be coded “DP”. This second portion of the trade is a non-exchange trade and is subject to the Regulation.

Example 4 – A broker to broker non-exchange trade between two IDA Members that has been executed on an electronic marketplace that is also an Acceptable Trade Matching Utility

If you execute a broker to broker non-exchange trade with another IDA Member on an electronic market place that is also an Acceptable Trade Matching Utility, you do not have to do anything for the purposes of the Regulation.

If you have any questions or concerns, please contact:

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