

## CSA Notice and Request for Comment

### Proposed Amendments to National Instrument 81-102 *Investment Funds*

October 19, 2023

#### Introduction

The Canadian Securities Administrators (**CSA** or **we**) are proposing amendments to facilitate a voluntary decision by a mutual fund to shorten the settlement cycle for purchases and redemptions of its securities from two days after the date of a trade (**T+2**) to one day after the date of a trade (**T+1**) in anticipation of a reduction of the settlement cycle for equity and long-term debt market trades in Canada to T+1.

We are publishing for a 90-day comment period proposed amendments (the **Proposed Amendments**) to National Instrument 81-102 *Investment Funds* (**NI 81-102**).

The text of the Proposed Amendments is contained in Annex A of this Notice and will also be available on the websites of the following CSA jurisdictions:

[www.lautorite.qc.ca](http://www.lautorite.qc.ca)  
[www.asc.ca](http://www.asc.ca)  
[www.besc.bc.ca](http://www.besc.bc.ca)  
[nssc.novascotia.ca](http://nssc.novascotia.ca)  
[www.fcnb.ca](http://www.fcnb.ca)  
[www.osc.gov.on.ca](http://www.osc.gov.on.ca)  
[www.fcaa.gov.sk.ca](http://www.fcaa.gov.sk.ca)  
[www.msc.gov.mb.ca](http://www.msc.gov.mb.ca)

#### Summary, Substance and Purpose

The purpose of the Proposed Amendments is to accommodate a range of settlement cycles and particularly for those mutual funds that voluntarily decide to shorten the settlement cycle for 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 Proposed Amendments introduce drafting changes to clarify that payments must be made no later than the reference settlement date of the purchase order. The reference settlement date of the purchase order is the business day determined by the mutual fund and disclosed in writing to

the principal distributor, the participating dealer, or the person or company providing services to the principal distributor or participating dealer, which must be on or before the second business day after the pricing date.

The Proposed 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.

## **Background**

On December 15, 2022, the CSA published for comment proposed amendments (the **NI 24-101 Amendments**) to National Instrument 24-101 *Institutional Trade Matching and Settlements*. Among other things, the NI 24-101 Amendments focus on facilitating the shortening of the standard settlement cycle for equity and long-term debt market trades in Canada from T+2 to T+1.

Concurrent with the publication of the NI 24-101 Amendments, CSA staff published CSA Staff Notice 81-335 *Investment Fund Settlement Cycles* (**Staff Notice 81-335**). Staff Notice 81-335 explained that CSA staff did not propose to amend sections 9.4 and 10.4 of NI 81-102 to mandate the shortening of the settlement cycle for primary distributions and redemptions of mutual fund securities from T+2 to T+1. However, it was CSA staff's view that mutual funds should settle primary distributions and redemptions of their securities on T+1 voluntarily if the standard settlement cycle for listed securities moves from two days to one day in Canada.

The comment period for the NI 24-101 Amendments closed on March 17, 2023, and we received one comment letter regarding Staff Notice 81-335. The commenter stated that, to facilitate a voluntary decision by a mutual fund to shorten the settlement cycle for purchase or redemption of its securities from T+2 to T+1, a technical amendment to the forced redemption for non-payment requirement in paragraph 9.4(4)(a) of NI 81-102 should be made. The commenter noted that the intent of paragraph 9.4(4)(a) of NI 81-102 is that a mutual fund must redeem its securities that were issued to a purchaser if the purchaser fails to pay for those securities the day after settlement. Because settlement is currently required on T+2, current paragraph 9.4(4)(a) of NI 81-102 effectively mandates redemption three days after the date of the trade (**T+3**). If a mutual fund voluntarily shortens its settlement cycle for a sale of its securities to T+1, the mutual fund should be required to redeem for non-payment on the date after settlement, which would be on T+2 rather than T+3.

Without the Proposed Amendments, current paragraph 9.4(4)(a) of NI 81-102 would make a voluntary movement to a T+1 settlement cycle by a mutual fund administratively challenging because it could not redeem its securities for non-payment until two days after the settlement date.

## **Content of Annexes**

This Notice contains the following annexes:

- Annex A – Proposed Amendments to National Instrument 81-102 *Investment Funds*
- Annex B – Local Matters

### **How to Provide Your Comments**

Please provide your comments in writing by **January 17, 2024**.

We cannot keep submissions confidential because securities legislation requires publication of a summary of written comments received during the comment period. All comments received will be posted on the website of each of the Alberta Securities Commission at [www.asc.ca](http://www.asc.ca), the Ontario Securities Commission at [www.osc.ca](http://www.osc.ca) and the Autorité des marchés financiers at [www.lautorite.qc.ca](http://www.lautorite.qc.ca). Therefore, you should not include personal information directly in comments to be published. It is important you state on whose behalf you are making the submissions.

Thank you in advance for your comments.

Please address your submission to all of the CSA as follows:

British Columbia Securities Commission  
Alberta Securities Commission  
Financial and Consumer Affairs Authority of Saskatchewan  
Manitoba Securities Commission  
Ontario Securities Commission  
Autorité des marchés financiers  
Financial and Consumer Services Commission, New Brunswick  
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island  
Nova Scotia Securities Commission  
Office of the Superintendent of Securities, Service NL  
Northwest Territories Office of the Superintendent of Securities  
Office of the Yukon Superintendent of Securities  
Superintendent of Securities, Nunavut

Please send your comments only to the following addresses. Your comments will be forwarded to the remaining jurisdictions:

The Secretary  
Ontario Securities Commission  
20 Queen Street West  
22nd Floor, Box 55  
Toronto, Ontario  
M5H 3S8  
Fax: 416-593-2318  
Email: [comments@osc.gov.on.ca](mailto:comments@osc.gov.on.ca)

Me Philippe Lebel  
Corporate Secretary and Executive Director, Legal Affairs  
Autorité des marchés financiers  
Place de la Cité, tour Cominar  
2640, boulevard Laurier, bureau 400  
Québec (Québec) G1V 5C1  
Fax: 514-864-8381  
Email: [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

## Questions

Please refer your questions to any of the following:

### *British Columbia Securities Commission*

James Leong  
Senior Legal Counsel, Corporate Finance  
Tel : 604-899-6681  
Email: [jleong@bcsc.bc.ca](mailto:jleong@bcsc.bc.ca)

### *Alberta Securities Commission*

Chad Conrad  
Senior Legal Counsel, Investment Funds  
Tel: 403-297-4295  
Email: [Chad.Conrad@asc.ca](mailto:Chad.Conrad@asc.ca)

### *Financial and Consumer Affairs Authority of Saskatchewan*

Heather Kuchuran  
Director, Corporate Finance  
Tel: 306-787-1009  
Email: [heather.kuchuran@gov.sk.ca](mailto:heather.kuchuran@gov.sk.ca)

### *Manitoba Securities Commission*

Patrick Weeks  
Deputy Director – Corporate Finance  
Tel: 204-945-3326  
Email: [Patrick.weeks@gov.mb.ca](mailto:Patrick.weeks@gov.mb.ca)

### *Ontario Securities Commission*

Michael Tang  
Senior Legal Counsel, Investment Funds and Structured Products Branch  
Tel: 416-593-2330  
Email: [mtang@osc.gov.on.ca](mailto:mtang@osc.gov.on.ca)

### *Autorité des marchés financiers*

Philippe Lessard  
Securities Analyst, Investment Products Oversight  
Tel: 514-395-0337 # 4364  
Email: [Philippe.Lessard@lautorite.qc.ca](mailto:Philippe.Lessard@lautorite.qc.ca)

### *Financial and Consumer Services Commission (New Brunswick)*

Joe Adair, Senior Securities Analyst  
Tel: 506-643-7435  
Email: [joe.adair@fcnb.ca](mailto:joe.adair@fcnb.ca)

*Nova Scotia Securities Commission*

Abel Lazarus

Director, Corporate Finance Branch

Tel: 902-424-6859

Email: [abel.lazarus@novascotia.ca](mailto:abel.lazarus@novascotia.ca)

Peter Lamey

Legal Analyst, Corporate Finance Branch

Tel: 902-424-7630

Email: [peter.lamey@novascotia.ca](mailto:peter.lamey@novascotia.ca)

## ANNEX A

### PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 81-102 INVESTMENT FUNDS

1. *National Instrument 81-102 Investment Funds is amended by this Instrument.*

2. *Section 9.4 is amended*

*(a) by adding the following subsection:*

(0.1) In subsections (1), (2), and (4), “reference settlement date” means the earlier of:

(a) the business day determined by the mutual fund and disclosed in writing to the principal distributor or participating dealer referred to in subsection (1), or to the person or company referred to in subsection (1) providing services to the principal distributor or participating dealer, and

(b) the second business day after the pricing date.,

*(b) in subsections (1), (2) and (4), by replacing “second business day after the pricing date” with “reference settlement date”, and*

*(c) by replacing in paragraph 4(a) “third business day after the pricing date” with “next business day after the reference settlement date”.*

#### Effective Date

3. (1) This Instrument comes into force on [DATE].

(2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after [DATE], this Instrument comes into force on the day on which it is filed with the Registrar of Regulations.