

T+2 Legal and Regulatory Working Group (LRWG)

Agenda

Tuesday January 17, 2017 - 11:00 AM ET (8:00 AM PT)

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|---|----------------|
| 1. Approval of the November 22, 2016 meeting minutes | Jamie Anderson |
| 2. Matters arising from the November 22, 2016 meeting minutes | |
| • Concerns regarding NI 81-102 <i>Investment Funds</i> | Jamie Anderson |
| • MFDA - T+2 preparedness questions | Charles Wang |
| 3. Update from T2SC meeting held November 23, 2017 | Jamie Anderson |
| 4. FINRA Rule amendments | Jamie Anderson |
| 5. Review of Open Issues | |

(a) Clearing Agencies	CDS (#001) CDCC (#003)	Fran Daly Martin Jannelle
(b) Exchanges	<ul style="list-style-type: none"> • Canadian Securities Exchange (#010; #030) • Aequitas NEO Exchange (#011; #050) • TSX (#009; #029), TSX-V (#031), TSX Alpha (#016) 	Jamie Anderson Cindy Petlock Mark Jarrett
(c) SROs	IIROC - (#024; #051; #052)	Answerd Ramcharan
(d) Investment Funds	Prospectuses and contracts (#013) Scholarship Plans, Pooled Funds (#033, #035)	Charles Wang CSA
(e) Legislation & Rules	NI 62-104 <i>Takeover Bids and Issuer Bids</i>	Jamie Anderson

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| 6. Issues to recommend to T2SC for closure | Jamie Anderson |
| • LRWG-049 Nasdaq CXC Limited (Trading Rules and Listing Policies) | |
| 7. Other Business | |
| 8. Next Meeting – Tuesday February 21, 2016 @ 11am | |

Conference Details

Local Dial-in (416) 933-8665 Toll-free Dial-in: 1-888-402-9166 Conference ID: 7312646#

Draft Minutes of the LRWG meeting from Tuesday November 22, 2016

Jamie Anderson welcomed all to the LRWG meeting. A role call was taken and the attendees are listed at the end of the minutes.

9. Approval of the October 27, 2016 meeting minutes¹

Jamie Anderson

The minutes were approved.

10. **Matters arising from the October 27, 2016 meeting minutes**

Charles Wang said he will report at the January 17, 2017 LRWG meeting as to whether the MFDA plans to monitor mutual fund dealer readiness as IIROC plans for its dealer members (such as the possibility of asking T+2 preparedness questions during routine examinations).

11. **Review of Open Issues**

(a) Clearing Agencies CDCC (#003)

Jamie Anderson

Jamie reported that he received a written update from Roger Warner of CDCC. CDCC's Board has approved necessary amendments for T+2. A request for comments will be issued. CDCC has recently issued its test plan to its members – this was included in an OWG email distribution.

(b) Exchanges

Bourse de Montréal (#012)

Jean-Philippe Joyal

Jean-Philippe reported that the proposed rule amendments will be presented to the MX's internal rule committee in Q1-2017. The amendments will be based on the new rule book that was recently approved.

Canadian Securities Exchange (#010; #030)

Jamie Anderson

Jamie reported that the proposed amendments will be submitted to the CSE Board this week. Subsequently, the amendments will be submitted to the CSE regulatory authorities as housekeeping amendments.

¹ <http://ccma-acmc.ca/en/wp-content/uploads/LRWG-MeetingPackage-2016-October-27.pdf>

Aequitas NEO Exchange (#011; #050)

Cindy Petlock

Jamie reported that he received an update from Cindy that Aequitas is still working on the amendments.

(c) SROs

IIROC - member rules (#024); UMIR (#052)

Answerd Ramcharan

Answerd was unable to attend the meeting.

(d) National Instruments

NI 81-102 - Investment Funds s. 9, s. 10 (#004)

Charles Wang

Charles reported that subsequent to discussions with the OSC, IFIC will not be sending a letter to the CSA regarding proposed amendments to NI 81-102. Charles advised that the CSA view is that the National Instrument as currently drafted has flexibility to accommodate T+2 – no amendments are necessary. IFIC agrees with this position. Charles advised that IFIC would like to have more industry guidance published.

Keith asked about the buy-in/close-out process in NI 81-102 that refers to T+4. Should this be changed to T+3 in light of T+2 settlement? As the majority of settlements currently occur on a T+3 basis, a move to T+2 would seem to indicate that NI 81-102 should be amended with buy-ins taking place on T+3. Otherwise, there is a two-day gap.

Jamie noted that the current wording in NI 81-102 provides that settlement can occur up to and including the third day of a trade. If the drafting is not amended for T+2, then settlements on T+3 will still be permissible within the provisions of NI 81-102. For instance, s. 9.4(1) states "...must forward any cash or securities received for payment of the issue price of securities of a mutual fund to an order receipt office of the mutual fund so that the cash or securities arrive at the order receipt office as soon as practicable and in any event no later than the third business day after the pricing date." Jamie inquired whether there is a view that NI 81-102 should be amended at some point or whether the NI 81-102 would stay as is.

Amid advised that the OSC and the AMF have communicated to IFIC that NI 81-102 does not need to be amended for T+2. The view is that notwithstanding the provisions permitting settlement to occur within three days, moving to T+2 does not necessitate amendments to the specific provisions. Amid referred to SEC Rule 15c6-1 in the U.S. where the settlement requirement is imposed on a broker

(rather than, for instance, the investment fund).² Furthermore, U.S. investment funds can settle up to seven days after a trade.

Abid advised that the OSC would not undertake a policy project of amending NI 81-102 unless it received a written submission because the OSC believes there is enough flexibility in the National Instrument.

Abid also advised that the OSC Investment Funds Branch is considering the focus on liquidity risk management and how that will be managed by fund managers and portfolio managers. In conclusion, a written submission would need to (i) address why amendments are required despite the CSA view that there is sufficient flexibility in NI 81-102, and (ii) outline the impact on the liquidity risk management framework if the proposed amendments were to be adopted.

Jamie asked if there was a compliance review on a fund regarding NI 81-102 and the fund settles on T+3, would the fund be considered in compliance with the National Instrument? Abid confirmed that the investment fund would not be offside the National Instrument if settlement occurs on T+3 notwithstanding the industry move to T+2. However, Abid noted that if the trade was intermediated by an investment dealer, the investment dealer may be offside T+2 rules applying to it. Abid advised this is the same as in the U.S. where the SEC is imposing Rule 15c6-1 rule changes on the broker but the investment fund timelines is still up to seven days.³

Max noted that there is no Canadian settlement rule that is imposed on Canadian investment dealers (contrary to the U.S. which does impose such a rule). This was raised in the consultation paper accompanying the NI 24-101 proposed amendments. NI 24-101 applies principles-based settlement rules on investment dealers but they are linked in the settlement cycles referred to in the SRO rules and the marketplaces' rules. NI 24-101 does not include trades in investment funds and there is not a separate obligation on investment dealers that are intermediating investment fund trades.

NI 81-104 - *Commodity Pools* s. 6.3 (#014)

Charles Wang

Charles reported that the plan is to rewrite NI 81-104 and incorporate into NI 81-102. No amendments are required.

NI 24-101 *Institutional Trade Matching* (#005)

Max Paré

Max reported that the comment period expired and five comment letters have been received and another comment letter is pending (six in total).⁴ The letters will be reviewed and summarized by the CSA committee. It is expected that the proposed amendments will be received as being non-

² SEC Rule 15c6-1 adopted under the *Securities Exchange Act of 1934*. <https://www.law.cornell.edu/cfr/text/17/240.15c6-1>

³ Section 22(e) of the *Investment Company Act* (U.S.). <https://www.sec.gov/about/laws/ica40.pdf>

⁴ <http://www.osc.gov.on.ca/en/24263.htm>.

controversial and assuming none of the commenters are opposed to the proposed amendments, there should be no issue in meeting the September 5, 2017 transition date.

(e) Insurance

Segregated Funds CLHIA Guideline (#007)

Charles Wang

Charles reported that Peter Goldthorpe of the CLHIA advised him that amendments to the CLHIA guidelines are not required for T+2.

12. report to T2SC for approval

**Issues completed to
Jamie Anderson**

The following was agreed:

- Issue Log LRWG-004 (NI 81-102 *Investment Funds*) would be tabled with the T2SC for closure as no amendments are required to the National Instrument for T+2.
- Issue Log LRWG-007 (Insurance Products - Individual Variable Insurance Contracts [segregated funds]) would be tabled with the T2SC for closure as no amendments are required to the CLHIA Guidelines for T+2.
- Issue Log LRWG-014 (NI 81-102 *Commodity Pools*) would be tabled with the T2SC for closure as no amendments are required to the National Instrument for T+2.
- Issue Log LRWG-045 (Omgeo Canada Matching Ltd.) would be tabled with the T2SC for closure as no changes to the Omgeo Canada master service agreement are required for T+2 and Omgeo Canada does not need to undertake any systems changes.

Jamie noted that ten issue logs have been referred to the U.S. ISC. These issue logs pertain to entities having their primary regulator in the U.S. Omgeo Canada was one of the issue logs leaving nine issue logs open at this point.

13. Other Business

There was no other business raised.

14. Next Meeting – Tuesday January 17, 2016 @ 11am

Jamie thanked everyone for their attendance and input. The meeting was then adjourned.

List of Attendees

Aequitas NEO Exchange	Cindy Petlock
Bourse de Montréal	Jean-Philippe Joyal
British Columbia Securities Commission	Meg Tassie
CCMA	Jamie Anderson (Chair)
CCMA	Keith Evans
CIBC Mellon	Carol Revoredo
CIBC Mellon	Dina Martinovic
Desjardins	Laura Iadisernia
IFIC	Charles Wang
L&T Infotech	Mike Lamacchia
Liquidnet	Al Kovacs
Morgan Stanley	Brian Choy
NBC	Wayne Warner
Ontario Securities Commission	Abid Zaman
Ontario Securities Commission	Nick Hawkins
Ontario Securities Commission	Max Paré
TD	Rob Candido
UBS	Walker Wentworth