

# Proposed enhancements to the regulatory framework for exchange-traded funds by the Canadian Securities Administrators



JULY 16, 2025 6 MIN READ

## Related Expertise

- [Capital Markets](#)
- [Financial Services](#)
- [Investment Funds](#)

Authors: [Andrew W. Aziz](#), [Vanessa Hansford](#), [Shawn Cymbalisky](#), [Arielle Kaplan](#), [Min Oh](#)

On June 19, 2025, the Canadian Securities Administrators (CSA) published consultation paper 81-409 – *Enhancing Exchange-Traded Fund Regulation: Proposed Approaches and Discussion* to propose and discuss potential enhancements to the existing regulatory framework for exchange-traded funds (ETFs). The consultation paper identifies potential gaps and seeks stakeholder views on the proposals. The comment period for the proposals ends on October 17, 2025.

## Policies and procedures for creations and redemptions of units

The creation and redemption of ETF units in the primary market are restricted to designated dealers, or “authorized participants” (APs). The primary market supports the arbitrage mechanism and could impact the management of an ETF’s portfolio, making the orderly creation and redemption of units critical. The CSA proposes that ETFs be required to establish, maintain and follow written policies and procedures for the creation and redemption of units. The proposed elements of the policies and procedures, as further detailed in the consultation paper, would

- ensure that primary market activities are subject to ETF manager oversight enhancing the robustness of the primary market
- provide a clear and cost-quantifiable creation and redemption mechanism to facilitate arbitrage
- help mitigate potential conflicts of interest and
- foster competition among APs by providing a level playing field for APs when dealing with an ETF

## Secondary market trading

The CSA proposes that ETFs be required to disclose up-to-date information on their website about the functioning of the arbitrage mechanism and secondary market trading in an accessible form, to help investors evaluate their investment and trading decisions. The

website disclosure proposals aim to improve investor understanding of the features of the ETF, enhance transparency and facilitate comparisons. The CSA proposes that ETFs post on their website the following metrics for each series (or class) of securities offered:

- the net asset value per security, the closing price, and premium or discount, each as of the prior business day
- a table showing the percentage of trading days the securities traded at a premium or discount during the most recently completed calendar year and the completed calendar quarters since that year (or the life of the ETF, if shorter)
- a line graph showing premiums or discounts for the most recently completed calendar year and the completed calendar quarter since that year (or the life of the ETF, if shorter)
- if the premium or discount of any class or series of securities offered is greater than 2% for more than seven consecutive business days, include a statement before the opening of trading on the ETF's listing exchange on the next business day of the applicable consecutive period confirming same, together with a discussion of the factors that are reasonably believed to have materially contributed to the premium or discount. This disclosure would be required to be maintained on the ETF's website for at least one year and
- the median bid-ask spread, expressed as a percentage rounded to the nearest hundredth, over the most recent 30 calendar days

The CSA is also proposing that the ETF facts document be amended to include a reference to the ETF's website that includes access to the metrics outlined above.

In addition, to ensure APs and market makers contribute to the functioning of the arbitrage mechanism and liquidity provision, the CSA proposes to introduce requirements for ETF managers to:

- monitor the functioning of the arbitrage mechanism and liquidity provision on the secondary market (including designated broker and AP participation in this regard) and
- establish, maintain and follow policies and procedures for their monitoring, to ensure consistent monitoring and oversight of the functioning of arbitrage and liquidity. The proposed policies and procedures would set out the ETF manager's process for assessing the effectiveness of arbitrage and liquidity provision on the secondary market and would specify the metrics that the ETF manager monitors for assessing arbitrage effectiveness and liquidity (including parameters for such metrics).

## AP Arrangements

The consultation paper raises concern regarding the current lack of disclosure on APs and AP arrangements as APs play a critical role in the operation of ETFs. To increase transparency regarding an ETF and its arrangement with dealers acting as APs, the CSA is proposing the following:

- ETFs enter into a written agreement with each dealer it authorizes to create and redeem ETF securities
- to introduce a definition of "authorized participant" in *National Instrument 81-102*

*Investment Funds* (NI 81-102) to mean “a dealer that has entered into a written agreement with the ETF that allows the dealer to purchase and redeem a manager-prescribed number of units of the ETF”

- ETFs file AP agreements in the list of documents required to be filed with a prospectus under s. 9.1(1)(a)(iv) of *National Instrument 41-101 General Prospectus Requirements* (i.e. documents that must be filed by an issuer that is an investment fund in order to receive a receipt for the issuer’s final prospectus)
- AP agreements are listed as a “Material Contract” in the ETF’s prospectus and
- ETF managers be required to provide the same information to facilitate liquidity provision and arbitrage to all APs at the same time and under the same conditions

In addition, the CSA is considering requiring an ETF to contract with at least two APs to alleviate concerns regarding exclusive arrangements.

## Disclosure of portfolio information for arbitrage and to the public

APs and other liquidity providers use information about an ETF’s portfolio to value the ETF to identify arbitrage opportunities and to construct hedges for their market positions. At this time, the CSA is of the view that as long as the risks of information asymmetry can be addressed and provided that arbitrage can be maintained effectively to align market prices closely with the ETF’s underlying value and narrow spreads, ETF managers should be permitted to continue their current disclosure practices and choose whether to disclose valuation information publicly.

To address public disclosure concerns, the CSA proposes that an ETF be required to establish, maintain and follow written policies and procedures governing the disclosure of portfolio information to facilitate arbitrage and inform the public and disclose key elements of these policies and procedures in its prospectus and on its website. The CSA further proposes that the ETF’s prospectus and website clarify whether the ETF provides current daily portfolio holdings to the public and disclose key elements of the ETF’s policies for disclosing portfolio information for arbitrage and to the public.

## Offering an exchange-traded series together with unlisted series

The CSA notes that it has noticed an increase in the number of funds that offer both exchange-traded series and unlisted series (i.e. conventional mutual fund series that is not listed on an exchange), which refer to the same pool of assets. The CSA has provided exemptive relief to facilitate the offering of exchange-traded series, allowing an exchange-traded series to be treated as if it were a fund that is separate from the assets attributable to the unlisted series. The CSA is seeking feedback on the differences between investing in an exchange-traded series and a standalone ETF and whether additional disclosure is needed to clarify the differences, including, among other things, potential costs, risks (including conflicts of interests) and benefits. The CSA is also seeking feedback on whether portfolio transaction costs related to unlisted series inflows and redemptions could be allocated solely to the unlisted series, as if the unlisted series were a separate fund.

## Availability of foreign ETFs

Investors can access U.S.-listed ETFs through brokerage accounts with Canadian investment dealers even though U.S.-listed ETFs do not market directly in Canada and may have exposure to foreign ETFs through investment fund holdings. This access makes available a wide array of products, including U.S.-listed ETFs that may engage in strategies not permitted under NI 81-102. Exemptive relief has been extended to allow Canadian-listed ETFs to invest in actively managed U.S. ETFs that are not index participation units (IPUs). The CSA is seeking feedback on the availability of foreign ETFs to the public, both directly through brokerage accounts and indirectly through publicly offered investment funds in Canada.