

SIMA⁷ Securities and
Investment
Management
Association

AMVI⁷ Association
des marchés de
valeurs et des
investissements

SIMA Submission

Re: CSA Consultation Paper 81-409

Enhancing Exchange-Traded Fund
Regulation: Proposed Approaches
and Discussion

October 31, 2025





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Dear Sirs and Mesdames:

RE: CSA Consultation Paper 81-409 - Enhancing Exchange-Traded Fund Regulation: Proposed Approaches and Discussion

The Securities and Investment Management Association (**SIMA**) appreciates the opportunity to comment on the Canadian Securities Administrators' (**CSA**) proposed amendments to the investment funds regulatory framework for exchange-traded funds (**ETFs**) published on June 19, 2025 (**Consultation**).

All terms used but not defined in this submission shall have the meanings ascribed to them in the Consultation.

SIMA empowers Canada's investment industry. The association is the leading voice for the securities and investment management industry, which oversees approximately \$4 trillion in assets for over 20 million investors and participates in the Canadian capital markets. Our members – including investment fund managers, investment and mutual fund deals, capital markets participants, and professional service providers – are committed to creating a resilient, innovative investment sector that fuels long-term economic growth and creates opportunities for all Canadians.

We operate in a governance framework in which we gather input from our member working groups. The recommendations of these working groups are submitted to the SIMA board or board-level committees for direction and approval. This process results in a submission that reflects the input and direction of a broad range of SIMA members.

This letter reflects a variety of SIMA's members' perspectives, including SIMA's ETF manager members and capital markets members and is informed by SIMA's own research.

We have indicated our support for several of the Consultation proposals in Appendix A, below. Where we have concerns with certain proposals, we have so indicated and provided our rationale and analysis.

SIMA's Key Recommendations and Overall Comments

Continued Success of the Canadian ETF Market

We thank the CSA for its thoughtful work on the Consultation and for its ongoing efforts to support the growth and success of the Canadian ETF market. In particular, we appreciate the CSA's responsiveness to considering issues through a variety of lenses, including, empirical research and stakeholder engagement and analysis. We also believe that the CSA has engaged in a detailed analysis of the current state of the Canadian ETF market and that the Consultation raises many salient issues for consideration.

It is understood that the CSA are informed by the recommendations in the *Good Practices Relating to the Implementation of the IOSCO Principles for Exchange Traded Funds*, published by the International Organization of Securities Commissions (**IOSCO**), to determine which elements thereof may be appropriate for the Canadian market. We believe that the reality of the Canadian context is a centrally important consideration.

The growth of ETFs has made them an important part of the investment industry, and we support efforts by the CSA to review the appropriateness of the current ETF regulatory framework with the aim of addressing any identified gaps. In this regard, the Ontario Securities Commission's (**OSC**) Study, *An Empirical Analysis of Canadian ETF Liquidity and the Effectiveness of the Arbitrage Mechanism* (**OSC ETF Review**) provides valuable insights – most notably, the OSC ETF Review findings suggest that the current framework is functioning effectively and does not reveal significant gaps. This raises important questions about the necessity of certain proposed changes and underscores the importance of ensuring that any reforms are supported by empirical evidence and targeted to address demonstrable issues.

SIMA members have raised general concerns about the potential adverse impact the proposed amendments could have on costs incurred by the ETFs which may ultimately be borne by investors. The imposition of regulatory burden, whether it be significant or incremental, in the absence of demonstrable issues risks being detrimental to the CSA's important and welcome focus on ways in which to bolster the Canadian markets.

Principles-Based Regulation

We believe that principles-based regulation of ETFs can continue to promote the competitiveness, opportunity for innovation and continued availability of Canadian ETFs. Overall, we believe the Consultation adopts a principles-based approach. In the selected instances where we believe the CSA has not achieved an optimal balance between precision and flexibility, we offer illustrative examples and alternative suggestions in our responses to the Consultation questions set out in Appendix A (**SIMA Responses**).

Disclosure Burden Compared with Information Availability

We support measures that meaningfully bolster investor protection and confidence in the ETF markets and have expressed our support for such proposed amendments in SIMA's Responses. Our members have also identified certain proposed amendments that, in our view, do not contribute to improved investor

understanding or investor protection. Where we have questioned the value of additional disclosure requirements, we have provided the reasoning behind our position and believe additional empirical data in support of the disclosure in question is essential, recognizing that such requirements may impose unwarranted regulatory burden on Canadian ETF managers with no corresponding benefit to the Canadian ETF market, including investors. We support the CSA's behavioural research and investor testing approach to streamlining disclosure and suggest that this approach be adopted in the context of considering the utility and impact of changes to ETF disclosures.

Wider Industry Issues

While many of the questions in the Consultation are aimed at ETF managers, the questions generally most relevant for dealers acting as APs, market makers or liquidity providers are questions 14-21 pertaining to CDDAs. Our capital markets members have focused on those questions.

A primary concern raised regarding AP arrangements centers around public disclosure of commercial terms contained within CDDAs with ETF managers. We have set out our detailed responses in the Consultation Questions in Appendix A.

The minimum two AP requirements could be problematic and unnecessary, particularly for new ETF issues that are looking to come to market quickly- as it would lengthen the time to market and increase their costs. Absent evidence that having only one AP impacts an ETF's liquidity, which is not demonstrated in the OSC ETF Review, we recommend against this requirement.

Conclusion

SIMA appreciates the opportunity to provide feedback on the impact of current Canadian ETF regulations on investors, our capital markets, issuers and managers. We are eager to continue the dialogue on this important Consultation.

Should you have any questions about anything included in our submission, please do not hesitate to reach out.

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With kind regards,
Yours sincerely,

THE SECURITIES AND INVESTMENT MANAGEMENT ASSOCIATION



By: Andy Mitchell
President and CEO

APPENDIX A

Consultation Questions and Responses

1. Are any of the proposed elements for the proposed policies and procedures for the creation and redemption of units unnecessary or not useful? Are there additional elements that should be included in these policies and procedures?

SIMA's Response:

We strongly urge the CSA not to prescribe the elements of ETF managers' various policies and procedures, but rather, to promote a framework of considerations that each ETF manager may wish to incorporate, based on their own business model. Regarding policies for the creation and redemption of units, we view the CSA's proposals as overly detailed and prescriptive. SIMA instead encourages a broader approach that focuses on the parameters for the construction and acceptance of custom baskets and an explanation of how and when an ETF might deviate from any standard parameters and specification of the roles of the managers/advisers that review each custom basket.

We further urge the CSA not to mandate the way in which a registrant creates and approves its policies, leaving the most effective way to do so at the discretion of each manager. We believe that this more flexible approach properly relies on the overarching fiduciary duty owed by managers, permitting any necessary adaptations to policies and procedures and related approvals. The foregoing reflects the more typical, well-established, and in our view, more appropriate means employed by the CSA when setting requirements relating to registered firms' policies and procedures. We do not see a compelling reason to depart from this approach at this time.

2. We did not propose that the policies and procedures for creations and redemptions be disclosed to the public since: (a) investors do not transact in the primary market and therefore may not require details about basket construction, and (b) the efficiency and potential risks of the primary market mechanism would be reflected in the key metrics we propose be disclosed on the ETF's website, as outlined in subsection III.B.1. However, are there specific elements of the policies and procedures (e.g., whether the ETF's creation and redemption baskets consist of a pro rata slice of the portfolio or an optimized sample, whether the ETF creates and redeems with in-kind securities or with cash, whether the ETF permits custom baskets, etc.) that should be disclosed in the prospectus to provide investors with useful information about the primary market mechanism for the ETF and potential risks?

SIMA's Response:

SIMA agrees with the CSA's approach not to require public disclosure of policies and procedures related to ETF creations and redemptions, for the reasons noted in the Consultation. We do not see evidence that a high degree of specificity in this disclosure would inform an investor's buy, sell or hold decision, and approaches to creation and redemptions can change from time to time.

Our members support, and generally provide within the prospectus, a high-level description of this process and view it as consistent with current regulatory requirements. To the extent that there are any material risks with the primary market creation and redemption process, we believe they should be disclosed in the risk section of the ETF's prospectus. We view the fiduciary responsibility of the ETF manager as central to identifying, managing, and disclosing any material conflicts of interest associated with basket composition and believe this appropriately addresses any regulatory concerns about how such conflicts are handled.

3. Does the proposed term “closing price” and the proposed definition of this term appropriately represent the secondary market value of an ETF’s security? If not, what definition would better reflect the secondary market value of an ETF’s security (e.g., a definition that references the national best bid and offer instead of the best bid and offer on the listing exchange) and what term would be better?

SIMA’s Response:

Some of SIMA’s ETF taskforce members have raised concerns regarding the suitability of the proposed definition of “closing price” as an accurate reflection of an ETF’s value in the secondary market. Our view is that uniformity on how exchanges, dealers and regulators define “closing price”, alongside the creation of a consolidated data feed, are two essential preconditions to using this definition.

Alignment in how exchanges, dealers and regulators define “closing price” is a necessary foundation for this metric being used effectively. Currently, we understand there to be different methodologies, resulting in inconsistencies.

One key operational issue is ensuring consistency in the data source used to determine the closing price, which is critical to accuracy and reliability. As outlined in the Consultation, the proposed definition relies on the calculated closing price on the Listing Exchange, or, where NAV is not calculated at the Listing Exchange’s closing time, the midpoint between the best bid and offer at the time NAV is calculated. However, Listing Exchanges define “closing price” differently, and these definitions are not harmonized—particularly for ETFs with low trading volumes where stale last prices may be used. This lack of uniformity can result in divergent methodologies for determining the closing price.

Additionally, some members have noted that the Listing Exchange may not be the venue with the highest trading volume for their ETFs, meaning the reported closing price may not accurately represent market value.

Our experience implementing the total cost reporting-related changes to National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations has underscored the importance of consistency in pricing methodologies. Divergent approaches across data sources create operational challenges and hinder comparability, reinforcing the need for a standardized definition of “closing price” from a single data feed. A centralized data feed could offer meaningful benefits by consolidating information and streamlining its delivery, thereby helping to mitigate the regulatory burden. We recognize, however, that developing such a feed would require time and could introduce additional costs for ETF managers, as well as implications for the implementation timeline of these amendments. In light of these considerations, we encourage the CSA to conduct a cost-benefit analysis before moving forward with this proposal.

If the CSA were to proceed with the adoption of the definition of “closing price”, we ask that the CSA clearly articulate detailed guidance on how to undertake these calculations. We also believe that publishing sample, non-binding disclosure language for instances where insufficient data is available (for example, as the case may be for certain international equity and fixed income ETFs). It may be that there are appropriate circumstances in which a specific metric is omitted, such as where the metric could be misleading, and is marked as not applicable.

Members do not agree with the proposal that an ETF should disclose when it has not traded for more than 30 calendar days. This could be disadvantageous to actively managed ETFs relative to passive ETFs, and particularly disadvantageous to newly launched funds. This in turn, could reduce competition, innovation and investment options.

4. For ETFs that do not calculate NAV as of the closing time of the listing exchange, would using the value that is the midpoint between the best bid and best offer on the listing exchange as of the time of NAV calculation appropriately represent the secondary market value of the securities of such ETFs? Is the term “closing price” appropriate for such ETFs? If not, what term would be more suitable?

SIMA’s Response:

We understand this question pertains to ETFs where the underlying securities cease trading prior to the ETF itself, such as certain foreign ETFs. In these cases, while SIMA members, including capital markets members, recognize that the “closing price” definition may not be ideal, we consider it the most suitable option among the available alternatives. This option better represents the secondary market value of the ETF’s securities.

5. Is the 2% premium/discount threshold appropriate to help identify ETFs that present significant deviations from NAV over a period of more than seven consecutive business days?

SIMA’s Response:

We appreciate the CSA’s ongoing efforts to enhance transparency in the Canadian ETF marketplace. We support disclosure frameworks that provide investors with clear, comparable, and decision-useful information. At the same time, we respectfully submit that the proposed 2 percent premium/discount threshold over seven consecutive business days is not necessary. In our view, it is unlikely to advance investor decision-making and could introduce costs that are not clearly offset by corresponding benefits.

First, Canadian evidence demonstrates that the arbitrage mechanism underlying ETFs is effective and resilient. The OSC’s ETF Review confirmed that deviations from net asset value are generally low across ETF types. Moreover, even during periods of market stress such as March 2020, deviations normalized quickly as the arbitrage process reasserted itself. Persistent mispricing is not a systemic concern. Against this backdrop, requiring special disclosure of events that are both rare and short-lived risks the information being misleading by overstating its significance and implying problems that may not actually exist.

Second, the practical incidence of the threshold is extremely limited. According to Fundata’s analysis (see Appendix B hereto), approximately 0.3% of ETF trading records in 2023 and 2024 exceeded the 2 percent level. Only four ETFs triggered the seven-day test in each year, with two of the same funds appearing in both years. The funds in question were concentrated in highly specialized categories such as digital assets and commodities. Creating a permanent disclosure regime to address such a narrow segment of the market would divert resources and attention without delivering meaningful investor information and protection and again, overstate the significance of such risks.

Third, the presence of website disclosure tied to this threshold could mislead rather than inform investors. For example, the disclosure could create an impression that there is a structural issue with either the ETF or its arbitrage mechanism, when, in reality, the deviation may be due to factors external to the ETF or its manager. Whether external factors are the proximate cause may not necessarily be identified with any degree of accuracy. So, the meaning of the data is uncertain and accordingly it is potentially unreliable.

Fourth, the additional burden of compliance should not be overlooked. Developing and maintaining the infrastructure necessary to monitor, document, and permanently disclose such rare events would impose costs on issuers that could ultimately flow through to investors. In our view, imposing these costs is not justified given the lack of demonstrated benefit to the investing public.

6. We observed from ETF websites that many ETFs offer downloadable daily NAV per security and closing price data over historical periods (such as for the period since inception). In addition to presenting historical premiums/discounts in a line graph as proposed, would it be beneficial to require ETFs to make their daily NAV per security, closing price, and premium/discount data for the past two calendar years available for download?

SIMA's Response:

While we generally support the CSA's objective of improving transparency in the ETF market and agree that investors should have access to clear, comparable, and meaningful information, we do not support the proposed mandatory disclosure of premium/discount data in the form and frequency outlined.

Our members, including those involved in capital markets, believe that disclosure related to how closely an ETF trades to its underlying value is not material information for most investors in the context of making informed investment decisions. Moreover, we are concerned that the incremental regulatory burden and associated compliance costs imposed by the proposed requirements would outweigh any potential benefit for the small subset of investors who might use this data.

Investor Use and Relevance of Premium/Discount Data

SIMA has conducted investor research to assess the relative importance of different types of ETF-related information. In a targeted survey of U.S. investors, where premium/discount data is available, we found that this information ranked seventh out of nine factors in terms of importance in making investment decisions. Investors placed much greater emphasis on elements such as management fees, historical performance, trading volume and liquidity, and alignment with investment objectives. This result is consistent with market realities. The ETF arbitrage mechanism functions effectively, keeping price deviations from NAV generally small. The OSC ETF Review, for example, found that premiums and discounts were typically small and, even during periods of market stress such as the onset of COVID-19, quickly reverted to normal levels.

Accuracy and Reliability Concerns

Capital markets participants within our membership have also highlighted a more fundamental concern: that premium/discount data, particularly on a daily basis, is often inaccurate or unreliable. There are structural and data-based limitations in how the net asset value (NAV) and market prices are calculated, particularly in global ETFs where underlying assets may trade in different time zones or with limited real-time pricing data.

In our view, the inclusion of data that may mislead or confuse investors is counterproductive, especially if it carries the appearance of precision while lacking robustness.

Behavioral Considerations and Information Overload

Behavioral economics research shows that excessive information can be counterproductive with the potential of overloading individuals, reducing comprehension, and leading to poorer decisions. Investors tend to focus on a few salient metrics such as performance and cost.

When confronted with complex or highly technical data, particularly in formats they may not fully understand, many investors either disregard it or misinterpret its meaning. Premium/discount figures, especially when presented as percentages, are easily misunderstood. A discount may be perceived as a bargain, even if it simply reflects routine time-zone effects or temporary pricing anomalies. A small premium may trigger unwarranted concern, even when it's well within normal market conditions.

SIMA's concern is that disclosure of marginally relevant details, such as multiple layers of premium/discount data, could confuse rather than clarify. Instead of enhancing decision making quality, this volume of information risks diverting attention from more meaningful metrics.

7. Are there alternative metrics or data presentations to those proposed that would help investors assess the functioning of the ETF's arbitrage mechanism and the liquidity of the ETF's securities on the secondary market? Would daily average bid-ask spreads over the same historical periods proposed for premiums and discounts in subsection (c) be useful for investors, in addition to the 30-day median bid-ask spread proposed?

SIMA's Response:

No, we do not believe there to be alternative metrics than those proposed. Members support the use of monthly (30-day median bid-ask) spreads, noting that daily average (mean) bid-ask spreads can be easily skewed by outliers – particularly during volatile periods. Additionally, we have not seen support for the historical bid-ask spread data over multi-year periods having any impact on investors' real-time decisions to buy, hold, or sell an ETF.

8. To what extent would the proposed website disclosure requirements increase costs for ETFs, taking into consideration the pricing information that is currently required in the ETF facts document? Please provide additional costs beyond the costs of providing the information currently required in the ETF facts document (e.g., initial set-up costs, on-going data costs, etc.).

SIMA's Response:

While the exact cost impact remains uncertain, SIMA agrees that ETF managers would face additional expenses if required to obtain and maintain updated data feeds on their websites—particularly when relying on third-party service providers to support these efforts. Furthermore, ETFs would need to revise posted information in the event of error corrections, adding to the operational burden.

Members provided some high-level cost estimates for the initial build of the requisite website disclosure based on their own current technology capabilities under best-case scenarios. Ultimately, however, to accurately assess the costs and feasibility of this proposed requirement, ETF managers would require clarity on the data fields to be disclosed and the precise calculation methodology to be used. It is important to note that, even under the best case scenarios, firms would incur both one-time and ongoing costs that we do not see as supported by evidence of any investor or market benefit.

9. Should the ETF facts document include information about premiums/discounts in the "Pricing Information" table, such as including the mean of the daily premiums/discounts over the 12-month period ending within 60 days of the date of the ETF facts document? What other measure would provide representative information about historical premiums/discounts?

SIMA's Response:

It would be helpful to better understand the CSA's rationale for proposing this disclosure. Clarifying the underlying purpose would assist us in shaping a more informed response. SIMA members do not believe this disclosure would be beneficial to investors, a view that is also reflected in the findings of the OSC ETF Review.

Since more current data is available on the ETF's website, we feel it would be most useful to include a cross-reference in the ETF Facts document that more data points are available on the ETF's designated website.

Please also see our response to Question 6 above.

10. Does the proposed policies and procedures requirement offer sufficient flexibility for ETF manager monitoring?

SIMA's Response:

SIMA members believe the proposal allows for sufficient flexibility with respect to the policies and procedures but do not believe that the CSA should prescribe how such monitoring is conducted. Members are of the view that bid-ask spreads and premiums/discounts to NAV are the primary metrics that should be monitored by ETF managers, but that deference should be given to registered firms on these issues. For the reasons set out below, we believe that the Listing Exchanges may be better suited to this type of monitoring than the ETF manager.

Both parties to a CDDA are registered firms and subject to regulatory obligations (either to the market or to the fund) and oversight. Moreover, the results of the OSC ETF Review did not show any meaningful concerns with the operation of the arbitrage mechanism. In light of this, it would be helpful to understand the problem that these CSA proposals seek to resolve. Understanding this will assist us in evaluating the practical implications of the proposal and how managers might respond to issues arising from such monitoring.

We believe that the principles-based approach to oversight in Section 11.1 of NI 31-103 provides a substantive requirement with respect to such oversight and is appropriately flexible. The fiduciary standard of care also ensures that ETF managers undertake what they consider to be third-party supplier oversight.

Our capital markets members indicate that the calculation of real-time NAV is costly and difficult to achieve. Please also see our response to Question 28. APs invest substantial resources to support the arbitrage mechanism today, while other large market data providers have abandoned this same effort due to its lack of accuracy.

11. Should the policies and procedures include other specific metrics that should be monitored? In addition to bid-ask spreads and premiums/discounts to NAV, what metrics should be required to be monitored?

SIMA's Response:

Please see our response to Question 10 above.

12. Do ETF managers make arrangements for liquidity provision with dealers that are not APs?

SIMA's Response:

SIMA's ETF manager members tend not to enter into such arrangements with dealers that are not APs.

13. Would disclosing the ETF manager's parameters on the ETF's website provide context for investors and help them evaluate the trading information proposed to be disclosed on the ETF's website under subsection III.B.1?

SIMA's Response:

Please see our response to Question 10 above.

14. Is information regarding an ETF's arrangements with its APs important for an investor's evaluation of an ETF? If not, why not?

SIMA'S Response:

ETF prospectuses already contain high-level disclosure on the existence of designated broker and other dealer arrangements. In our view, additional disclosure beyond this would offer limited utility to investors to make a buy, hold or sell decision.

Members note that CDDAs typically follow an industry standard template, with minimal variation in form and with little room for negotiation of the terms between ETFs and APs. As such, requiring additional disclosure about their terms is unlikely to provide meaningful insight to investors, particularly, given the lack of material differences in these agreements across ETFs. We do not support naming APs.

15. Would the proposal to include each agreement to act as an AP for the ETF as a document required to be filed with the prospectus and listed under the "Material Contracts" heading in the prospectus provide investors with useful information about the ETF's arrangements with its APs? Are there other means of providing information regarding the ETF's arrangements with its APs?

SIMA's Response:

While SIMA members, including capital markets members, recognize that CDDAs are important to the operation of an ETF, we strongly disagree with the proposal that these agreements be listed and filed as Material Contracts alongside the prospectus. These documents have little to no impact on key investor considerations, such as quoting, spreads, or the ETF's overall performance.

We are unable to identify any clear benefit to unitholders from such detailed disclosure. Moreover, including the material terms of CDDAs in the prospectus would impose unnecessary costs on ETF issuers without delivering corresponding investor or market protection. This is particularly concerning given that such inclusion could trigger the requirement to file an amended prospectus whenever an AP is added or changed or potentially when a CDDA is amended. Practically speaking, naming a third-party in a prospectus often necessitates their review and approval of the related disclosure, adding time and expense to the drafting and amendment process.

CDDAs can contain commercially sensitive information (though such information is not material to investors) and so, to the extent that ETF managers would need to both redact and then file CDDAs as Material Contracts, we are concerned about the increased regulatory burden without a corresponding and clearly articulated benefit.

SIMA members also question whether the CSA is seeking additional insight into ETF-AP arrangements to allow for their own greater regulatory oversight of such agreements or for other purposes. If so, we

encourage the CSA to clarify what specific information would be helpful, so that the industry can explore efficient means of providing the information of importance.

Our capital markets members consider these agreements to be relatively standardized documents that primarily serve as the legal framework for the creation and redemption of ETF units and consider detailed disclosure to be of minimum benefit, including for the reasons set out above. These agreements are frequently updated with the addition and deletion of funds, further reducing their utility as a disclosure item.

16. Should an ETF's agreement with its designated broker be required to be filed with the ETF's prospectus as a required document under s.9.1(1)(a)(iv) of NI 41-101 and disclosed under Item 31 (Material Contracts) of Form 41-101F2 Information Required in an Investment Fund Prospectus?

We do not agree that this should be the case. Please see our response to Question 15 above, as the same rationale applies to our analysis of whether designated broker agreements should be classified as Material Contracts and require filing with the prospectus. We further note that the designated broker has obligations under the exchange rules which are approved by and are under CSA/CIRO oversight.

17. Do ETF managers provide information to determine the ETF's underlying value and information for the creation and redemption of units to market participants other than APs (i.e., market participants that do not have a written agreement that authorizes them to create and redeem units) in order to foster a more diverse pool of potential arbitrageurs? If an ETF manager enters into agreements or arrangements with such other market participants, should the ETF manager also provide these participants with the same information for conducting arbitrage as is provided to APs, even though they are not authorized to create or redeem units?

SIMA's Response:

Please see our response to Question 12 above.

SIMA strongly believes that ETF managers should retain full discretion to share information for the purpose of facilitating arbitrage with APs with whom they have entered into appropriate contractual arrangements, which may include CDDAs.

Many ETFs consider this information to be proprietary and require non-disclosure agreements prior to sharing such information. Ultimately, a market participant that is genuinely interested in providing liquidity and engaging in arbitrage should become an AP of the ETF.

CDDAs serve as the legal foundation that enable APs and market makers to receive the necessary information to facilitate the creation and redemption of ETF units and provide liquidity in the market. Extending the same level of access to market participants who are not APs and who, as a consequence, are not authorized to provide liquidity, appears inappropriate and may introduce risks, such as potential misuse of the information.

Furthermore, we have not seen evidence—either in the OSC ETF Review or elsewhere—suggesting a lack of competition among potential arbitrageurs that would justify broader disclosure of this information to entities not authorized to create or redeem units.

18. Does having only one AP pose undue risk for the primary market? Are there obstacles for ETFs to contract with at least two APs?

SIMA's Response:

SIMA's ETF manager members have not identified any risks arising in the primary market, but rather, feel that the risk pertains to the potential for wider bid-ask spreads and of market outages causing trading issues for investors in the *secondary market*.

Other than for certain newer or smaller ETFs, the process of contracting with more than one AP tends to be fairly straightforward. It is not necessarily the number of APs with which an ETF has entered into an arrangement that provides investor and market protection, but rather, it is the number of APs that participate in the creation/redemption process in respect of the ETF that renders the benefit. SIMA urges the CSA to consider whether there are any mechanisms available to the CSA - alone or in concert with other regulators – to help create incentives for APs to participate in the creation/redemption process.

SIMA's capital market members believe that only one AP creates concentration risk and may pose certain risks to the primary market, particularly in ensuring efficient arbitrage and liquidity. Despite these perceived risks, in some instances, (e.g., smaller ETFs) it may be impractical for an ETF to have more than one AP. ETF managers have the discretion to implement measures, as considered appropriate, such as competitive spread targets or other performance benchmarks, to ensure the sole AP maintains efficient arbitrage.

Overall, SIMA views these risks as being mitigated by disclosure and sees potential benefit for smaller and innovative ETFs.

19. Would the presence of a second AP (and therefore, the potential for competition) help mitigate concerns associated with a single AP potentially not maintaining efficient arbitrage to align the market price of the ETF closely to the underlying value? Is this concern more significant for ETFs that do not disclose daily portfolio information to the public, making it less likely for non-AP dealers to provide liquidity? Are there other ways for the ETF manager to ensure that a sole AP maintains efficient arbitrage?

SIMA's Response:

SIMA believes that having more than one AP can help mitigate concentration concerns associated with having a single AP. Nevertheless, imposing a requirement for multiple APs could increase costs for smaller or emergent ETF issuers that may not have the reputation or scale to attract multiple APs. This can have a negative impact on innovation and competition.

We disagree with the CSA that whether an ETF discloses daily portfolio information to the public has a bearing on the ability of APs to provide liquidity (regardless of whether an ETF has one or more than one AP). As referenced in our response to Question 18, the benefit to investors and the market comes from having more than one AP quoting an ETF, not simply having a contract with more than one AP. Determining appropriate ways to incentivize APs to actively participate in the creation/redemption process may be the most effective way of managing such risks.

20. If an ETF has only one AP due to specific obstacles in contracting with more APs, should exclusive arrangements with the AP be prohibited, thereby making it possible for the ETF to contract with additional APs once the obstacles do not exist? What benefits would an exclusive arrangement (or de facto exclusive arrangement) provide for the ETF and its investors that would outweigh the risks of limiting primary market access (and potentially, liquidity provision, for certain ETFs) to only one AP?

SIMA's Response:

While SIMA members do not believe that exclusive arrangements with an AP should be prohibited, we do believe they represent a risk that would require prospectus disclosure to investors.

SIMA capital markets members believe that prohibiting exclusive arrangements could limit the ability of smaller or newer ETF issuers to launch products, as they may struggle to secure the necessary support from APs or obtain less favorable terms. While exclusive arrangements may limit primary market access temporarily, they can provide critical benefits to the ETF and its investors during the fund's early stages.

Further, there are certain situations where exclusive arrangements with a single AP may be necessary. For example, when an issuer requires a large seed capital investment to launch an ETF, an exclusive arrangement can facilitate the sale of the seed units. Without such an arrangement, the AP may bear the cost of seeding the fund, only to face the risk of losses if another AP redeems or creates units shortly afterward. This ensures the AP has sufficient incentive to support the ETF's launch and ongoing operations.

21. If an ETF only has one AP, should the name of the AP be prominently disclosed in the prospectus or ETF facts document, for example, under Items 14 (Purchases) and 15 (Redemptions) of Form 41-101F2 and under Item 2, Part I of Form 41-101F4 (Quick Facts table), to inform investors of the ETF's reliance on the sole AP?

SIMA's Response:

Instead of having to disclose the name of the sole AP in the prospectus or ETF facts document, we instead recommend inclusion by the ETF manager of the risk of having a single AP. We believe that this is the more pertinent information to investors.

Additionally, SIMA's capital market members note that requiring the disclosure of the sole AP's name in the prospectus or ETF facts document is unlikely to provide meaningful benefits to investors. Most retail investors lack the technical knowledge to understand the implications of such information, and it may lead to confusion rather than clarity. To ensure fairness and mitigate risks, issuers typically set reasonable spread targets when selecting an AP. These targets are based on the underlying liquidity of the ETF's portfolio and help ensure that investors receive fair execution in the secondary market. This approach is more effective in addressing potential concerns than disclosing the name of the sole AP, which would provide limited practical value.

22. Should ETFs continue to be allowed to determine the type of valuation information they provide to facilitate the arbitrage mechanism? If not, what parameters for portfolio information would ensure that the valuation information provided can facilitate effective arbitrage that will promote close tracking of the market price of the ETF to the underlying value? For example, should there be a requirement to provide the portfolio holdings that make up a minimum percentage of the portfolio's value?

SIMA's Response:

SIMA strongly believes that each ETF manager should continue to be allowed to determine the type of valuation information they provide in the absence of any issue having been identified. Because of the diversity in ETF strategies, it is imperative that managers have the ability to determine the type of disclosure that is effective for their own particular funds, without which, market makers are unable to effectively operate. ETF managers already have an incentive to provide the best and most relevant information to APs in order to obtain tight bid-ask spreads and enable efficient arbitrage. The OSC ETF Review does not suggest otherwise.

SIMA capital markets members believe that flexibility supports innovation, and that flexibility is particularly important for ETFs that are series of mutual funds, which often do not provide full portfolio transparency. Issuers are cognizant that incomplete information can reduce the accuracy of real-time pricing, which could negatively impact the ETF's market efficiency.

23. Do our proposals, as outlined in subsection III.D.5, sufficiently address the risks of information asymmetry? Are there additional measures that could further reduce these risks?

SIMA's Response:

The OSC ETF Review does not suggest that public disclosure of full portfolio holdings impacts ETF liquidity nor the effectiveness of the arbitrage process.

Our understanding is that most ETF providers have existing operational processes in place to deliver portfolio holding information to APs overnight, typically in the hours after midnight. In this way, the information is available to the APs when they arrive early in the morning and portfolio holdings are updated on the ETF manager's website closer to 6 am. SIMA members see no practical issues – including any information asymmetry while the market is open – that warrant changing this current process. Regardless, any information market asymmetry vis-à-vis the public would be appropriate given the offsetting benefits to the ETFs and their investors.

SIMA capital markets members agree that the information is sufficiently addressed with robust monitoring and the disclosure of additional information.

24. Do you agree that permitting ETFs to provide full portfolio holdings (or other valuation information) daily only to APs for market making purposes strikes an appropriate balance between offering investors more product choice and the potential risks of information asymmetry?

SIMA's Response:

Yes, please refer to our response to Question 23.

ETF managers have a fiduciary responsibility to act in the best interests of their funds, including determining the type of valuation information (such as portfolio holdings and other information) that is consistent with this duty.

25. Do the proposed policies and procedures regarding an ETF's disclosure of portfolio information for valuation and its disclosure of portfolio information to the public outlined in subsection III.D.3 cover the key elements for portfolio information disclosure?

SIMA's Response:

SIMA supports the requirement for ETF managers to disclose that they provide equal portfolio holding information access to all APs with whom they have signed an agreement. However, we strongly urge the CSA not to prescribe specific details for ETF portfolio disclosure related to valuation or public reporting. In the absence of identified concerns regarding market functioning or evidence that investors lack access to decision-useful information beyond what is already required in the ETF's prospectus or ETF Facts document, we do not believe additional prescribed portfolio disclosure requirements are warranted.

Our capital markets members note that they consider providing daily portfolio holdings to APs to be critical, as APs require this information to facilitate in-kind primary market transactions and execute large trades efficiently. As an aside, requiring full public disclosure of portfolio holdings daily may not be appropriate for all ETFs, particularly for those with actively managed strategies or less liquid underlying securities. For these ETFs in particular, daily transparency could create risks such as front-running or pricing uncertainty.

26. Would the proposed disclosure requirements regarding an ETF's Portfolio Holdings Disclosure Policy in the ETF's prospectus and website provide sufficient information about the public availability of information regarding the ETF's portfolio holdings and the portfolio information that it provides to facilitate arbitrage? Is there other information that would be helpful for an ETF to disclose about its Portfolio Information Disclosure Policy? Should the proposed disclosure be included in both the prospectus and the ETF's website?

SIMA's Response:

We do not believe this information should be required to be disclosed.

On the broader issue of disclosure, we commend the CSA's efforts to revise and streamline the Management Report of Fund Performance (**MRFP**) and encourage a similar philosophy of prioritizing streamlined, clear, and comparable information that is genuinely useful to investors.

If the CSA has ongoing concerns regarding the quality or effectiveness of an ETF's policies and procedures, we believe these matters are best addressed through the regulatory review process. This would allow for a more targeted and efficient review without imposing unnecessary public disclosure requirements that do not have demonstrated benefits in resolving an identified problem.

27. Does the proposed defined term "daily transparent ETF" effectively convey to investors that such an ETF discloses its full portfolio holdings to the public daily?

SIMA's Response:

SIMA members have raised several concerns with the proposed definition of "daily transparent ETF" and do not support its adoption in the final proposals. Members do not believe this definition—or the underlying concept—offers meaningful value to investors, who can already determine from an ETF's website whether holdings are disclosed on a current or delayed basis.

There is widespread concern that such a label may unintentionally create a positive bias toward index-based ETFs, while casting actively managed ETFs in a negative light. While daily disclosure may be appropriate for index strategies, it poses risks for actively managed ETFs by exposing proprietary strategies and potentially discourages participation, which would limit investor choice and innovation.

Significantly, members are also concerned with the proposed sequencing of disclosure to investors and APs. The suggested timing does not align with current industry practice, and no rationale has been provided to justify requiring ETFs to alter the process by which APs receive information prior to market open. Additionally, members question whether the proposed definition inadvertently conflates valuation and disclosure in a way that could mislead investors.

It is important to note that many Canadian-listed ETFs are already voluntarily disclosing that they are daily transparent, where it is not potentially harmful to investors, and this requirement may not add significant value for investors in the circumstances. To the extent issuers disclose ETF holdings, it is typically at the end of the trading day, which aligns with operational realities and minimizes risks associated with intraday trading. We believe this should remain at the discretion of the ETF manager.

For actively managed ETFs, daily transparency may introduce challenges, as frequent trading within the fund could lead to pricing uncertainty. Comparing spreads or premium/discount behavior between ETFs with similar transparency but different underlying assets, active versus passive, etc., may yield differing results due to factors such as liquidity and market structure.

28. Should ETFs be required to publish an iNAV and why? If yes, please provide estimates of costs for publishing an iNAV for a specified frequency (e.g., every 15 seconds).

SIMA's Response:

Consistent with IOSCO findings regarding iNAVs, SIMA strongly encourages the CSA not to mandate the publication of an iNAV by ETFs. iNAVs may add confusion for investors, thereby interrupting their decision making, which could entail opportunity costs.

Our members are not aware of any market demand for published iNAVs and have expressed concerns regarding the accuracy and reliability of iNAV calculations—particularly for ETFs holding non-North American securities. Additionally, valuation methodologies can vary among market makers, making the establishment of a consistent and meaningful iNAV challenging.

More importantly, iNAV is not viewed as a reliable or decision-useful metric for investors. Its comparability across ETFs would be limited, further diminishing its value as a disclosure tool. The United States Securities and Exchange Commission eliminated its iNAV requirement when it introduced Rule 6c-11 in 2019.

While we do not have a precise cost estimate for implementing mandatory iNAV publication, we believe the financial burden would be significant. Given that Canadian ETFs have operated for over 35 years without a demonstrated investor or market need for published iNAVs, we do not believe the associated regulatory burden or cost is justified.

Our capital market members consider iNAVs to often be inaccurate and they are therefore not relied upon by APs. They view publishing iNAVs to be expensive and are concerned that they may create confusion for investors, who might mistakenly interpret iNAV as the true fair value of the ETF. This is particularly concerning for ETFs with illiquid underlying securities, such as bonds, where the iNAV may not accurately reflect the true value of the portfolio. For example, bonds often trade in secondary markets at prices that differ significantly from their iNAV valuation. This discrepancy could mislead investors and undermine confidence in an ETF's pricing. Given the costs and potential for confusion, the requirement to publish iNAVs does not seem justified for all ETFs.

29. Should ETFs be required to provide public disclosure of full portfolio holdings on a less frequent and/or delayed basis, such as at the end of each month, with a delay of no more than 30 days? Please specify the benefits and costs of any proposal for less frequent (e.g., weekly, monthly, etc.) and/or delayed public disclosure of full holdings, including details on the proposed frequency and delay.

SIMA's Response:

SIMA strongly discourages any additional requirement for public disclosure of full portfolio holdings on a mandated frequency. In the absence of a demonstrated investor need for this level of data, we see no clear benefit to such a proposal.

ETF managers consider portfolio holdings to be proprietary information and a form of intellectual capital. Mandating public disclosure could inadvertently undermine competitive positioning and innovation in ETF product development for some ETF managers, depending on the type of ETF and the frequency and lag time of the required disclosure. Mandating such disclosure may have the impact of discouraging active strategies.

30. Are there differences between investing in an exchange-traded series and a standalone ETF in addition to those discussed above? Please specify any additional benefits, costs or risks of investing in an exchange-traded series compared to a standalone ETF. Is there a potential for conflict of interest matters to arise in the management of an exchange-traded series and unlisted series within one fund, where the fund manager's actions could prioritize the interests of one series over the other?

SIMA's Response:

SIMA members have noted operational differences between exchange-traded series and stand-alone ETFs, particularly for products that offer both mutual fund and ETF series. Certain benefits include that ETF series have a track record if they are issued subsequently to pre-existing mutual fund series, whereas new stand-alone ETFs do not have a track record. Such ETF series also offer scale and efficiency compared to new stand-alone ETFs.

Our members, including capital markets members, indicate that ETF series are not able to externalize the execution costs related to series purchases and redemptions because they are sharing assets with a different fund structure, and this is often considered one of the key benefits of stand-alone ETFs that have in kind baskets. Incremental cash drag can occur when incoming cash into the ETF series cannot be deployed as efficiently as in a stand-alone ETF. Portfolio rebalancing can be inefficient for ETF series, and they can also have higher trading expense ratios relative to stand-alone ETFs.

There are numerous allocation issues to be addressed for each series of mutual fund units. The method used to address such issues is determined on a firm-by-firm-basis.

31. Are there costs attributable only to unlisted series (such as costs attributable to purchases or redemptions of unlisted series, as discussed above) that are shared with the exchange-traded series? Could such costs be allocated only to the unlisted series to avoid impacting the exchange-traded series, such that the exchange-traded series would operate more similarly to a standalone ETF?

Please see our response to Question 30 – final paragraph.

32. Is additional disclosure necessary to inform investors of the differences between investing in an exchange-traded series and a standalone ETF? Should this disclosure be included in the ETF facts document or only in the prospectus?

SIMA's Response:

SIMA members do not support the inclusion of descriptive language of the material differences between stand-alone and exchange-traded series of an ETF. We believe this to be a somewhat abstract question that could get into very detailed disclosure regarding tax, liquidity and other issues that could be confusing as opposed to clarifying to investors. Moreover, we do not believe that establishing a precedent of setting out product comparisons is the correct approach.

33. Should there be a restriction on switches to and from exchange-traded series? Should the restriction only apply to switches from exchange-traded series to unlisted series?

SIMA's Response:

We view this as an operational matter rather than a regulatory one. Accordingly, we do not support imposing a regulatory restriction on such switches, though we do believe that switches should occur at NAV and not at market price.

The primary barrier to effecting these switches is operational in nature. The process is often manual due to the lack of seamless integration between the systems used for mutual fund and ETF series. If the industry is able to resolve these system challenges, SIMA believes that such switches should be permitted and could be implemented effectively.

34. Please provide your views on the availability of foreign ETFs for investors through brokerage accounts and through holdings by investment funds subject to NI 81-102.

SIMA's Response:

SIMA is of the view that question 34 raises complex, broader industry considerations that warrant a separate consultation process, distinct from the current review focused on the ETF regulatory framework. This question also has implications for the distribution segment of the industry.

35. Are there any additional measures that would be beneficial for investors in their consideration of investments in foreign ETFs in comparison to investments in Canadian ETFs?

SIMA's Response:

Please see our response to Question 34.

APPENDIX B

Analysis of ETF Premium/Discount Deviations Exceeding 2% (Fundata, 2023–2024)

Year	Total Records	Records > 2%	% of Records > 2%	ETFs Triggering 7-Day Test	Notes on Fund Types
2024	346,239	1,016	0.29%	4	Digital assets, commodities, convertibles, leveraged/inverse
2023	292,560	959	0.33%	4	Same fund types; 2 repeat funds from 2023