

13.3.3 Material Amendments to CDS Procedures – Change to Recent Period for FINet Loss Allocation – Request for Comments

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

MATERIAL AMENDMENTS TO CDS PROCEDURES

CHANGE TO RECENT PERIOD FOR FINET LOSS ALLOCATION

REQUEST FOR COMMENTS

A. DESCRIPTION OF THE PROPOSED CDS PROCEDURE AMENDMENTS

The proposed change is to amend the loss allocation formula for FINet to reduce the maximum number of days in the definition of the “recent period” from 365 calendar days to 30 calendar days.

B. NATURE AND PURPOSE OF THE PROPOSED CDS PROCEDURE AMENDMENTS

If a FINet participant defaults and the realized value of their collateral is not sufficient to cover the resulting losses, the residual loss is allocated to the surviving FINet participants based on each survivor’s trading activity with the defaulter. To calculate each survivor’s share of the residual loss, CDS reviews original trades between the defaulter and the survivors that were netted in FINet during the “recent period”. The recent period is the number of days, prior to the day of default, that it takes to accumulate original trades with a dollar value of five times the dollar value of the defaulting participant’s scheduled net deliveries and receives of securities that were replaced by CDS as part of the close-out process (essentially the defaulter’s net open positions).

With the implementation of FINet, a maximum number of days for the recent period were set at 365 calendar days. Since that time, participants have indicated that 365 days is too long a period and that they would prefer a shorter period. The rationale is that exposure to counterparties that FINet participants have explicitly decided to no longer trade with should not extend for a prolonged period.

C. IMPACT OF THE PROPOSED CDS PROCEDURE AMENDMENTS

C.1 Competition

Currently FINet is the only fixed income or money market central counterparty service in Canada. CDCC is currently developing a central counterparty service which will replace FINet at some point in the future. The nature of the proposed procedure amendments have no competitive impact.

C.2 Risks and Compliance Costs

There are no risk and compliance costs associated with the change.

C.3 Comparison to International Standards – (a) Committee on Payment and Settlement Systems of the Bank for International Settlements, (b) Technical Committee of the International Organization of Securities Commissions, and (c) the Group of Thirty

The proposed changes are consistent with all relevant international standards.

D. DESCRIPTION OF THE PROCEDURE DRAFTING PROCESS

D.1 Development Context

The proposed amendments were developed by CDS and reviewed and recommended for approval by the Risk Advisory Committee on December 7, 2010 and January 18, 2011.

D.2 Procedure Drafting Process

CDS Procedure Amendments are reviewed and approved by CDS’s Strategic Development Review Committee (“SDRC”). The SDRC determines or reviews, prioritizes and oversees CDS-related systems development and other changes proposed by participants and CDS. The SDRC’s membership includes representatives from the CDS Participant community and it meets on a monthly basis.

These amendments were reviewed and approved by the SDRC on June 23, 2011.

D.3 Issues Considered

Based on a 99% confidence level, in 1% of instances 30 calendar days would not be sufficient to accumulate five times the outstanding positions. In the event that five times the outstanding positions could not be achieved in 30 calendar days, the available dollar value of accumulated original trades is used to calculate the loss percentage.

If no original trades are found during the recent period, the residual loss is allocated based on the active surviving participants' proportionate contribution to the participant fund as a whole.

D.4 Consultation

The proposed amendments were developed by CDS and reviewed and recommended for approval by the Risk Advisory Committee on December 7, 2010 and January 18, 2011. There were no material issues or objections raised by participants during these consultations.

D.5 Alternatives Considered

Various lookback periods were considered ranging between 8 business days and 20 business days (ie. approximately 30 calendar days). The resulting confidence levels were discussed by the Risk Advisory Committee and agreed that the 99% confidence provided by 30 calendar days was appropriate.

D.6 Implementation Plan

CDS is recognized as a clearing agency by the Ontario Securities Commission pursuant to section 21.2 of the Ontario *Securities Act*. The Autorité des marchés financiers has authorized CDS to carry on clearing activities in Québec pursuant to sections 169 and 170 of the Québec *Securities Act*. In addition CDS is deemed to be the clearing house for CDSX[®], a clearing and settlement system designated by the Bank of Canada pursuant to section 4 of the *Payment Clearing and Settlement Act*. The Ontario Securities Commission, the Autorité des marchés financiers and the Bank of Canada will hereafter be collectively referred to as the "Recognizing Regulators".

The amendments to Participant Procedures may become effective upon approval of the amendments by the Recognizing Regulators following public notice and comment.

E. TECHNOLOGICAL SYSTEMS CHANGES

E.1 CDS

The recent period for the FINet loss allocation is a parameter in CDSX. This change does not require any system code changes.

E.2 CDS Participants

No changes are required.

E.3 Other Market Participants

No changes are required.

F. COMPARISON TO OTHER CLEARING AGENCIES

Information is not available from other CSDs in order to conduct a comparable analysis. The loss allocation formula used by FINet is unique and tailored to the requirements of CDS's participants. Loss allocation formulas typically used by other CCPs are based on an assessment of the risk or collateral requirements of the surviving participants.

G. PUBLIC INTEREST ASSESSMENT

CDS has determined that the proposed amendments are not contrary to the public interest.

H. COMMENTS

Comments on the proposed amendments should be in writing and submitted within 30 calendar days following the date of publication of this notice in the Ontario Securities Commission Bulletin to:

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Copies should also be provided to the Autorité des marchés financiers and the Ontario Securities Commission by forwarding a copy to each of the following individuals:

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CDS will make available to the public, upon request, all comments received during the comment period.

I. PROPOSED CDS PROCEDURE AMENDMENTS

The proposed procedure amendments are available for review and download on the [User Documentation](#) page on the CDS website at <http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-UserDocumentation?Open>.