

**13.1.5 CDS Clearing and Depository Services Inc. (CDS®) – Technical Amendments to CDS Procedures – Finalization of rule 204 for Regulation SHO**

**CDS Clearing and Depository Services Inc. (CDS®)**

**TECHNICAL AMENDMENTS TO CDS PROCEDURES**

**Finalization of rule 204 for Regulation SHO**

**NOTICE OF EFFECTIVE DATE**

**A. DESCRIPTION OF THE CDS PROCEDURE AMENDMENT**

*Background*

On July 27 the Securities and Exchange Commission (SEC) announced the finalization rule 204 of Regulation SHO. The effective date of the final rule was July 31, 2009 and replaced the interim final temporary rule that went into effect on October 17, 2008. The changes bring the procedures in-line with the final rule.

The CDS Procedures marked for the amendments may be accessed at the CDS website at:

<http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-blacklined?Open>.

*Description of Proposed Amendments*

The final rule provides a different duration for the close out to occur for securities that are “deemed to own”, as set out by the SEC. Included in the definition of deemed to own are securities that are covered by rule 144 of the Securities Act of 1933 (Securities Act), which had a specific close out period under the interim final temporary rule. The close out period for 144 issues period under the interim final temporary rule was the 36th business day after the settlement date of the trade. The close out period for deemed to own securities under the final rule is the 35th calendar day after the trade date of the trade. CDS participants will advise CDS via CDSX on-line screens when a fail is related to deemed to own issues, in the same manner that they used previously for 144 issues.

In addition, participant reports will be modified to provide them with a breakdown of the carry forward quantities to allow them to monitor whether a fail has been successfully cleared.

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 August 27, 2009.

**B. REASONS FOR TECHNICAL CLASSIFICATION**

The amendments proposed pursuant to this Notice are considered technical amendments as amendments required to ensure consistency or compliance with an existing rule, securities legislation or other regulatory requirement.

**C. EFFECTIVE DATE OF THE CDS PROCEDURE AMENDMENT**

Pursuant to Appendix A (“Rule Protocol Regarding The Review And Approval Of CDS Rules By The OSC”) of the Recognition and Designation Order, as amended on November 1, 2006, and Annexe A (“Protocole d’examen et d’approbation des Règles de Services de Dépôt et de Compensation CDS Inc. par l’Autorité des marchés financiers”) of AMF Decision 2006-PDG-0180, made effective on November 1, 2006, CDS has determined that the proposed amendments will become effective on a date subsequently determined by CDS, and as stipulated in the related CDS Bulletin.

**D. QUESTIONS**

Questions regarding this notice may be directed to:

Mike Polak  
Director, Operations Support  
CDS Clearing and Depository Services Inc.  
85 Richmond Street West  
Toronto, Ontario M5H 2C9

Telephone: 416 365-3856  
Fax: 416-365-0842  
e-mail: [mpolak@cds.ca](mailto:mpolak@cds.ca)