

13.1.6 Technical Amendments to CDS Procedures Relating to Regulation SHO – SEC Interim Final Temporary Rule 204T

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

TECHNICAL AMENDMENTS TO CDS PROCEDURES

REGULATION SHO – SEC INTERIM FINAL TEMPORARY RULE 204T

NOTICE OF EFFECTIVE DATE

A. DESCRIPTION OF THE CDS PROCEDURE AMENDMENT

In 2006, CDS's regulators approved amendments to the CDS Participant Rules related to Regulation SHO as adopted by the United States Securities and Exchange Commission ("SEC"). Under the rule amendments, CDS was granted the authority to close out a fail-to-deliver position of a participant using the cross-border services in certain equity securities trading in the U.S. that are on a U.S. SRO list of securities experiencing substantial and persistent failures to deliver. Regulation SHO's close-out requirements were designed to address problems with failures to deliver in certain equity securities.

In 2007, the SEC amended the close-out requirements for fails to deliver resulting from sales of threshold securities pursuant to Rule 144 of the Securities Act of 1933 (Securities Act). And CDS's regulators approved consequential technical amendments to CDS Participant Rule 10.2.3(b) in order to be consistent with the amended Regulation SHO.

On October 17, 2008, the SEC adopted Interim Final Temporary Rule 204T to expand the close-out requirements in Regulation SHO. Specifically, additional close-out requirements were enacted for fails to deliver resulting from sales of any equity securities, in addition to existing close-out requirements for threshold securities.

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

New York Link Participant Procedures (Release 24.2)

Ch 1: About the New York Link Service, s 1.8: Regulation SHO (deleted)

Ch 2: Regulation SHO (new chapter)

CDS Reporting Procedures

Ch 1: Introduction to CDS reports, s 1.2: List of reports

Ch 23: Trade reports, s 23.6: Projected Threshold Close-Out report - New York Link Service

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 April 30, 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: 416-365-7691
e-mail: mpolak@cds.ca