

13.1.4 Technical Amendments to CDS Procedures – Dormant Participants – Notice of Effective Date

**CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)**

**TECHNICAL AMENDMENTS TO CDS PROCEDURES**

**DORMANT PARTICIPANTS**

**NOTICE OF EFFECTIVE DATE**

**A. DESCRIPTION OF THE AMENDMENTS**

*Background*

Changes to the *Participating in CDS Services Procedures* are required in order to implement recent material rule amendments regarding dormant participants. Amendments to CDS Participant Rules 2 and 3 were approved by the CDS Board of Directors on June 17, 2008, and have been published for comments.

As currently set out in the procedures noted above, participants may choose to become dormant and request that their status be changed from active to dormant by sending CDS a formal letter to this effect. The proposed amendments add a 'deemed to be dormant' category for participants that have not used any CDS services or functions in any of their CUIDs or ledgers for a period of six or more consecutive months.

Currently, participants are permitted to continue indefinitely as dormant participants provided that they pay the annual dormancy fee of \$2,000. The proposed amendments will change this in that dormant participants will be required to pay the positive difference between the original entrance fee they paid and the current re-assessed entrance fee, as well as meet all participant eligibility requirements every five years of dormancy, in order to maintain their dormant participant status.

Currently, if a dormant participant wishes to become active again, it must submit an application to CDS's Customer Service and if accepted, the dormant participant is reactivated without having to pay any additional fees. Under the proposed amendments, dormant participants must still complete the application process and pay the positive difference between the original entrance fee paid (or the last re-assessed entrance fee) and the newly assessed entrance fee.

In addition, the proposed amendments also provide for CDS to approach dormant participants every five years to determine their status and re-assess their qualifications, and confirm a participant's dormant status is non-transferable to firms that acquire such participant.

These proposed amendments are intended to prevent dormant participants from remaining dormant indefinitely and reactivating without payment of an additional entrance fee. The concern is that once reactivated, participants can benefit from CDS's services without having sufficiently contributed to the development and operating costs incurred by CDS during the dormancy period. Further, the annual dormancy fee of \$2,000 does not reflect increases in CDS's development and operating costs since the 1980's.

The 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 following procedures will be impacted by this initiative:

Participating in CDS Services:

- Chapter 1 Introduction to CDS, Section 1.7

**B. REASONS FOR TECHNICAL CLASSIFICATION**

The amendments proposed pursuant to this Notice are considered technical amendments as they are consequential amendments intended to implement a material rule that has been published for comment pursuant to the rule protocol, and which only contain material aspects already contained in the material rule or disclosed in the notice accompanying the material rule.

**C. EFFECTIVE DATE OF THE RULE**

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 these amendments will become effective on a date subsequently determined by CDS, and as stipulated in the related CDS Bulletin.

These amendments were reviewed and approved by the CDS Strategic Development Review Committee ("SDRC") on **July 31, 2008**.

**D. QUESTIONS**

Questions regarding this notice may be directed to:

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