

**13.1.7 Notice and Request for Comment - Material Amendments to CDS Procedures Relating to CAVALI Link Service**

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

**MATERIAL AMENDMENTS TO CDS PROCEDURES**

**CAVALI LINK SERVICE**

**REQUEST FOR COMMENTS**

**A. DESCRIPTION OF THE PROPOSED AMENDMENTS**

The following CDS procedures will be impacted by this initiative:

International Services Procedures:

- Overview
- Chapter 5 CAVALI Link Service.

The procedures will be updated to inform CDS participants that they can settle trades with participants of the central securities depository ("CSD") for Peru, CAVALI S.A I.C.L.V ("CAVALI") on a free of payment basis within CDSX® for securities that are CDSX eligible. Facilitating settlements of securities positions on a free of payment basis with CAVALI's account in CDSX will operate in the same manner as settling securities positions on a free of payment basis with any CDS participant. However, because CAVALI is a foreign depository, CDS will add CAVALI as a CSD link to its existing list of foreign depositories such as JASDEC (Japan) and Euroclear France. A small section will be added to CDS's internal and external procedures accordingly.

**B. NATURE AND PURPOSE OF THE PROPOSED AMENDMENTS**

CAVALI submitted an application to become a CDS participant in order to move positions of securities eligible at CDS on a free-of-payment basis. CAVALI is a public corporation listed on the Bolsa de Valores de Lima – BVL (Lima Stock Exchange), whose purpose is the registration, custody, clearing, settlement and transfer of securities, as defined under the Peru Securities Market Act.

CDS's review process for approving new participants was undertaken as required - first to The Canadian Depository for Securities Limited ("CDS Ltd.") Strategy Group, (comprised of CDS Ltd.'s executive management), then to the Governance/Human Resources Committee of the CDS Ltd. Board of Directors<sup>1</sup>, and then to the CDS Ltd. Board of Directors itself. CAVALI's application to become a CDS participant was reviewed to ensure that all of the requirements in the CDS participant rules and the application for participation were satisfied. CAVALI's application to become a CDS participant was approved by the CDS Ltd. Board of Directors on June 17, 2008.

The nature of CAVALI's participation in CDSX will be the same as the existing international link CDS has with JASDEC. The amendment will formalize CDS's addition of CAVALI to its suite of international links with other CSDs and to advise participants how they may facilitate settlements with CAVALI's account within CDSX.

The settlement in CAVALI's account within CDSX will be for securities issued by Canadian companies that are inter-listed on the Lima Stock Exchange ("BVL") and the TSX or the TSX Venture Exchange. The link with CAVALI will allow participants of both depositories to facilitate book-based movements of inter-listed Canadian securities that are eligible at both depositories, within CDSX. The transactions in CDSX will be treated as non-exchange trades for settlement purposes. Settlement of the funds obligations associated with securities transactions will be completed outside of CDS, as the proposed arrangement with CAVALI will only allow free of payment transactions.

There will be no change in process at CDS or in CDSX functionality, as CAVALI's account will operate as any other CDSX account. Participants will be informed of the opening of CAVALI's account at CDS as a new participant in the CDSX.

By becoming a participant of CDS, CAVALI will be able to more efficiently move Canadian securities on behalf of its participants within CDSX. Also Peruvian investors will be better able to transact in Canadian securities with the corollary benefit of improved liquidity for the Canadian issuers of these securities. CDS participants that transact in these inter-listed securities also should benefit from the elimination of the hurdles associated with clearing by alternative means for securities that are transacted with Peruvian brokers.

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<sup>1</sup> Pursuant to a unanimous shareholder agreement between The Canadian Depository for Securities Limited ("CDS Ltd.") and CDS, effective as of November 01, 2006, CDS Ltd., which acts under the supervision of its Board of Directors, assumed all rights, powers, and duties of the CDS Board of Directors.

Establishing a link with CAVALI to allow improved trade in Canadian securities between the Canadian and Peruvian markets is consistent with CDS's international strategy and our mandate to foster the global competitiveness of our stakeholders. Such a link is also consistent with the Free Trade Agreement<sup>2</sup> that was signed recently between Canada and Peru.

## **C. IMPACT OF THE PROPOSED AMENDMENTS**

The proposed amendments to the CDS Procedures relating to the CAVALI Link Service will not have any impact on current or prospective CDS participants.

### **C.1 Competition**

The proposed amendments to the CDS Procedures relating to the CAVALI Link Service will have no impact on the ability of qualified and eligible market participants to access CDS's clearing, settlement, and depository services.

### **C.2 Risks and Compliance Costs**

There are no changes in risks or compliance costs for marketplaces or for CDS.

### **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**

No such comparison is available in respect of the proposed amendments.

## **D. DESCRIPTION OF THE PROCEDURE DRAFTING PROCESS**

### **D.1 Development Context**

The proposed amendments were developed by CDS staff in order to inform CDS participants that they can settle trades with CAVALI's participants on a free of payment basis within CDSX for securities that are CDSX eligible.

### **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.

### **D.3 Issues Considered**

The proposed amendments will inform CDS participants that they can settle trades with CAVALI's participants on a free of payment basis within CDSX for securities that are CDSX eligible.

### **D.4 Consultation**

The SDRC reviewed and approved the proposed amendments on July 31, 2008, prior to their submission for public comment.

### **D.5 Alternatives Considered**

The *status quo* was considered, but CAVALI's participation in CDS presented significant benefits to both parties' participant communities and markets. As a result of becoming a participant of CDS, CAVALI's and CDS participants will be able to more efficiently settle Canadian securities within CDSX. Also Peruvian investors will be better able to transact in Canadian securities with the corollary benefit of improved liquidity for the Canadian issuers of these securities. These securities positions are currently settled through CAVALI's account with DTCC in the U.S, but often transactions experience delays, so this new arrangement with CDS is expected to be more efficient.

Establishing a link with CAVALI will allow improved trade in Canadian securities between the Canadian and Peruvian markets which is consistent with CDS's international strategy and CDS's mandate to foster the global competitiveness of its stakeholders.

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<sup>2</sup> <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/peru-perou/peru-perou-table.aspx>

**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<sup>®</sup>, 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**

No technological systems changes to CDS's systems are anticipated as a result of the proposed amendments.

**E.2 CDS Participants**

No technological systems changes to participants' systems are anticipated as a direct result of the proposed amendments.

**E.3 Other Market Participants**

The proposed amendments are not expected to result in any technological systems changes for other market participants.

**F. COMPARISON TO OTHER CLEARING AGENCIES**

No comparable or similar procedures were available for other clearing agencies.

**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 delivered by October 12, 2008 to:

Euarda Matos  
Legal Counsel  
CDS Clearing and Depository Services Inc.  
85 Richmond Street West  
Toronto, Ontario M5H 2C9  
Fax: 416-365-1984  
e-mail: [attention@cds.ca](mailto:attention@cds.ca)

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:

M<sup>e</sup> Anne-Marie Beaudoin  
Directrice du secrétariat  
Autorité des marchés financiers  
800, square Victoria, 22<sup>nd</sup> floor  
PO box 246, tour de la Bourse  
Montréal (Québec) H4Z 1G3

Fax: (514) 873-7455  
e-mail: [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

Manager, Market Regulation Branch  
Ontario Securities Commission  
Suite 1903, Box 55,  
20 Queen Street West  
Toronto, Ontario, M5H 3S8

Fax: 416-595-8940  
e-mail: [marketregulation@osc.gov.on.ca](mailto:marketregulation@osc.gov.on.ca)

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

**I. PROPOSED PROCEDURE AMENDMENTS**

Appendix "A" contains text of current CDS Participant Procedures marked to reflect proposed amendments as well as text of these procedures reflecting the adoption of the proposed amendments.

JAMIE ANDERSON  
Managing Director, Legal

**APPENDIX “A”  
PROPOSED PROCEDURE AMENDMENT**

<b>Text of CDS Participant Procedures marked to reflect proposed amendments</b>	<b>Text of CDS Participant Procedures reflecting the adoption of proposed amendments</b>
<p><b>Overview</b></p> <p>Participants use this document to learn about:</p> <ul style="list-style-type: none"> <li>• International deliveries, how to process using the International Message Hub (IMHub)</li> <li>• JASDEC Link Service</li> <li>• Euroclear France Link Service</li> <li>• SEB Link Service</li> <li>• <u>CAVALI Link Service.</u></li> </ul> <p>To view forms indicated in this manual, access <u>CDS Forms Online</u> on the CDS Web site (www.cds.ca).</p> <p><b>Assumptions</b></p> <p>This manual is written with the following assumptions:</p> <ul style="list-style-type: none"> <li>• Participants have signed the Application for Participation in CDS’s services.</li> <li>• The terminology used in the manual is standard in the industry.</li> <li>• All dollar amounts are in Canadian funds, unless stated otherwise.</li> </ul> <p><b>Notice of implementation of procedures</b></p> <p>The predecessor service to CDSX was the Debt Clearing Service (or “DCS”). Any references to DCS in the CDSX system or related documents, including data, reports, screens, forms, procedures or user guides, shall be deemed to be references to CDSX.</p> <p><b>Legal precedence</b></p> <p>The reader is advised that this procedure or user guide is one of the legal documents governing a participant’s use of CDS’s services. In the event of any conflict between:</p> <ul style="list-style-type: none"> <li>i) the Participant Agreement and the Rules and</li> <li>ii) the procedures or user guides, the Participant Agreement and the Rules shall have precedence and govern.</li> </ul> <p><b>Comments and suggestions</b></p> <p>Send any comments and suggestions for this manual to CDS Customer Service.</p>	<p><b>Overview</b></p> <p>Participants use this document to learn about:</p> <ul style="list-style-type: none"> <li>• International deliveries, how to process using the International Message Hub (IMHub)</li> <li>• JASDEC Link Service</li> <li>• Euroclear France Link Service</li> <li>• SEB Link Service</li> <li>• CAVALI Link Service.</li> </ul> <p>To view forms indicated in this manual, access CDS Forms Online on the CDS Web site (www.cds.ca).</p> <p><b>Assumptions</b></p> <p>This manual is written with the following assumptions:</p> <ul style="list-style-type: none"> <li>• Participants have signed the Application for Participation in CDS’s services.</li> <li>• The terminology used in the manual is standard in the industry.</li> <li>• All dollar amounts are in Canadian funds, unless stated otherwise.</li> </ul> <p><b>Notice of implementation of procedures</b></p> <p>The predecessor service to CDSX was the Debt Clearing Service (or “DCS”). Any references to DCS in the CDSX system or related documents, including data, reports, screens, forms, procedures or user guides, shall be deemed to be references to CDSX.</p> <p><b>Legal precedence</b></p> <p>The reader is advised that this procedure or user guide is one of the legal documents governing a participant’s use of CDS’s services. In the event of any conflict between:</p> <ul style="list-style-type: none"> <li>i) the Participant Agreement and the Rules and</li> <li>ii) the procedures or user guides, the Participant Agreement and the Rules shall have precedence and govern.</li> </ul> <p><b>Comments and suggestions</b></p> <p>Send any comments and suggestions for this manual to CDS Customer Service.</p>

Text of CDS Participant Procedures marked to reflect proposed amendments	Text of CDS Participant Procedures reflecting the adoption of proposed amendments
<p><b><u>CHAPTER 5</u></b>  <b><u>CAVALI Link Service</u></b></p> <p><u>The CAVALI Link Service is a unilateral, free of payment (FOP) custody link established by CDS with the Peruvian central securities depository, CAVALI. The link facilitates book-based movements of eligible Canadian securities between the two depositories within CDSX. The international delivery results in a trade between a participant's CDS CUID and the CAVALI CUID.</u></p> <p><b><u>Security eligibility</u></b></p> <p><u>To make securities eligible for the CAVALI Link Service, contact CDS Customer Service.</u></p> <p><u>For more information on whether a security is eligible for the CAVALI Link Service, refer to CDSX Procedures and User Guide.</u></p> <p><b><u>Movements between CDS and CAVALI</u></b></p> <p><u>Movements are processed in CDSX in the same manner as domestic non-exchange trades.</u></p> <p><u>For more information on domestic non-exchange trades, refer to Trade and Settlement Procedures.</u></p> <p><b><u>CAVALI holiday processing</u></b></p> <p><u>Transactions at CAVALI are subject to processing according to CAVALI's business days and regular hours of operation. Instructions sent to CAVALI on a Peruvian holiday or after their regular hours of operation are not processed until the following business day.</u></p> <p><u>If CDS receives instructions from CAVALI to settle a transaction on a Canadian holiday, CDS completes the transaction on the next Canadian business day.</u></p>	<p><b>CHAPTER 5</b>  <b>CAVALI Link Service</b></p> <p>The CAVALI Link Service is a unilateral, free of payment (FOP) custody link established by CDS with the Peruvian central securities depository, CAVALI. The link facilitates book-based movements of eligible Canadian securities between the two depositories within CDSX. The international delivery results in a trade between a participant's CDS CUID and the CAVALI CUID.</p> <p><b>Security eligibility</b></p> <p>To make securities eligible for the CAVALI Link Service, contact CDS Customer Service.</p> <p>For more information on whether a security is eligible for the CAVALI Link Service, refer to CDSX Procedures and User Guide.</p> <p><b>Movements between CDS and CAVALI</b></p> <p>Movements are processed in CDSX in the same manner as domestic non-exchange trades.</p> <p>For more information on domestic non-exchange trades, refer to Trade and Settlement Procedures.</p> <p><b>CAVALI holiday processing</b></p> <p>Transactions at CAVALI are subject to processing according to CAVALI's business days and regular hours of operation. Instructions sent to CAVALI on a Peruvian holiday or after their regular hours of operation are not processed until the following business day.</p> <p>If CDS receives instructions from CAVALI to settle a transaction on a Canadian holiday, CDS completes the transaction on the next Canadian business day.</p>