

13.1.4 Notice and Request for Comment – Material Amendments to CDS Procedures Relating to Dormant Participant Procedures

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

MATERIAL AMENDMENTS TO CDS PROCEDURES

DORMANT PARTICIPANT PROCEDURES

REQUEST FOR COMMENTS

A. DESCRIPTION OF THE PROPOSED AMENDMENTS

The proposed amendments are intended to clarify the process by which current CDS Participants can change their participant status from “Active” to “Dormant”. CDS Participants wishing to change their participation status from active to dormant (i.e., from self-clearing to clearing through another CDS Participant) are currently able to do so by submitting a request to CDS Customer Service and paying a dormancy fee. This fee is listed on CDS’s fee schedule and is paid on an annual basis per Participant.

B. NATURE AND PURPOSE OF THE PROPOSED AMENDMENTS

The proposed amendments are intended to codify the ability of CDS Participants to change their status from Active to Dormant, and vice versa. Most importantly, the proposed amendments will clarify that CDS Participants have the option to maintain Dormant status (as an alternative to withdrawal from Participation) so that, in the event that the Participant chooses to return to active, self-clearing, status, the Participant will not be required to pay a further Entrance Fee, as they would be required to do if applying for Participation *de novo*.

C. IMPACT OF THE PROPOSED AMENDMENTS

Beyond the addition of the clarification to the Participant Procedures User Guide entitled *Participating in CDS Services*, the proposed amendments will have no substantive impact on current or prospective CDS Participants.

In the event that a current Participant who has maintained dormant status wishes to return to active status and resume self-clearing activities through CDS’s systems, that Participant will be required to complete and file a new Application for Participation. This new Application will require the approval of CDS’s Board of Directors – pursuant to regular CDS practice – prior to being re-instated as an Active Participant.

C.1 Competition

The proposed amendments to CDS Procedures, and to the process of re-instatement of a Dormant Participant to Active status, 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

The risks and compliance costs in respect of the process by which Dormant Participants return to Active status are the same as would apply for a new Participant submitting an Application for Participation for Board of Directors’ approval. The same timeline for approval would apply in the event of a re-instatement by this process.

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

CDS Staff identified a lack of clarity in existing procedures in respect of Participants who wished to change from Active to Dormant status, or vice versa. CDS currently has several dormant participants (i.e., Participants who do not self-clear, choosing instead to clear through an Active CDS Participant), and it was deemed prudent to document the process for future Active-to-Dormant/Dormant-to-Active status changes. The proposed amendments were developed by CDS Staff in that context and for that purpose.

D.2 Procedure Drafting Process

The Dormant Participant procedure amendments were developed by CDS personnel and are reviewed and approved by CDS's Strategic Development Review Committee ("SDRC"). The service description comprising the substance of the proposed amendments was developed by CDS product development staff.

D.3 Issues Considered

The proposed amendments enable Active Participants further latitude in respect of their own operations and clearing procedures. CDS considered it important to allow its Participants, if they so choose, the opportunity and capacity to remain a CDS Participant.

D.4 Consultation

CDS staff consulted with the members of its SDRC, which committee's membership includes representatives from the CDS Participant community. The SDRC reviewed and approved the proposed amendments prior to their submission for public comment.

D.5 Alternatives Considered

The *status quo* was considered; CDS Staff, however, determined that current procedures in respect of Dormant Participants, Dormant Status, and changes to the Active/Dormant status of Participants were not sufficiently responsive to the demands of CDS's market and its Participants.

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

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. Where a CDS Participant chooses to move to or from Dormant status, normal changes in respect of connectivity to CDS's systems would be required.

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 **December 16, 2007** to:

Tony Hoffmann
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

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

Fax: (514) 873-7455
e-mail: 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: sgreenlass@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

Text of CDS Participant Procedures marked to reflect proposed amendments	Text CDS Participant Procedures reflecting the adoption of proposed amendments
<p>1.7 Dormant participants</p> <p><u>Participants that decide to clear and settle trades through other CDS participants can change their status to dormant by paying an annual dormancy fee. This will maintain their status as a non-active participant. By paying the dormancy fee, participants who opt out of using CDS services for a fixed period of time can resume using CDS services without paying an additional membership fee.</u></p> <p><u>Participants requesting a dormancy status should do so by sending a formal letter (on company letterhead) to CDS Customer Service.</u></p> <p><u>If a dormant participant chooses to use a CDS service during the dormancy period, the participant must pay the non-participant fee for that service.</u></p> <p><u>Participants who want to become active again (i.e., self-clearing) must complete an Application for Participation and submit it to CDS Customer Service for board approval.</u></p>	<p>1.7 Dormant participants</p> <p>Participants that decide to clear and settle trades through other CDS participants can change their status to dormant by paying an annual dormancy fee. This will maintain their status as a non-active participant. By paying the dormancy fee, participants who opt out of using CDS services for a fixed period of time can resume using CDS services without paying an additional membership fee.</p> <p>Participants requesting a dormancy status should do so by sending a formal letter (on company letterhead) to CDS Customer Service.</p> <p>If a dormant participant chooses to use a CDS service during the dormancy period, the participant must pay the non-participant fee for that service.</p> <p>Participants who want to become active again (i.e., self-clearing) must complete an Application for Participation and submit it to CDS Customer Service for board approval.</p>