

Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 CDS Rule Amendment Notice – Technical Amendments to CDS Procedures Relating to Regulation SHO

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

TECHNICAL AMENDMENTS TO CDS PROCEDURES

REGULATION SHO

NOTICE OF EFFECTIVE DATE

A. DESCRIPTION OF THE RULE AMENDMENT

Background

In July, 2006 CDS's regulators approved amendments to the CDS Participant Rules related to the United States Securities and Exchange Commission's (SEC) Regulation SHO. 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.

The proposed amendments are made to ensure that CDS and its Participants will be in compliance with amendments to Regulation SHO that were adopted by the SEC on June 13, 2007.

These amendments include:

- The elimination of the grandfather provision so that all fail to deliver positions in threshold securities will have to be closed out within 13 consecutive settlement days, regardless of whether or not they occurred before the security became a threshold security.
- Permitting previously-accepted grandfather positions that are threshold securities on the effective date of the amendment to be closed out within 35 settlement days of the effective date of the amendment.
- Amending Rule 203 of Regulation SHO to extend the close out requirement from 13 to 35 consecutive settlement days for fails to deliver resulting from sales of threshold securities pursuant to Rule 144 of the Securities Act.

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

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

[en francais: <http://www.cds.ca/cdsclearinghome.nsf/Pages/-FR-Documentation?Open>]

Description of Proposed Amendments

Sections 1.8.2 and 1.8.3 of the CDS User Guide entitled *New York Link Participant Procedures* will be amended to incorporate the recent amendments to Regulation SHO and the procedure which CDS Participants engaged in the sale of Restricted Securities (Rule 144) must follow in order to avoid the standard 13-day settlement process.

B. REASONS FOR TECHNICAL CLASSIFICATION

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

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 OSC Recognition and Designation Order, as amended 1 November, 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 1 November, 2006, CDS has determined that these amendments will be effective on **October 15, 2007**.

D. QUESTIONS

Questions regarding this notice may be directed to:

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