

13.3 Clearing Agencies

13.3.1 CDS Clearing and Depository Services Inc. (CDS®) – Notice of Effective Date – Technical/Housekeeping Amendments to CDS Rules

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

NOTICE OF EFFECTIVE DATE

TECHNICAL/HOUSEKEEPING AMENDMENTS TO CDS RULES

A. DESCRIPTION OF THE CDS RULE AMENDMENTS

The CDS Rules marked for the amendments are attached as Appendix A and may be accessed at the CDS website at:

<http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-Participantrules>.

Rule 1.3.9 is updated to reflect current legislation. The reference to section 10.2 of the Quebec *Securities Act* (repealed in 2008) is replaced by a reference to the *Act Respecting the Transfer of Securities and the Establishment of Security Entitlements of Quebec* (in force since January 1, 2009). The reference to the recognition of CDS as a clearing agency under the Ontario *Business Corporations Act* is deleted, as the recognition is now only under the Ontario *Securities Act*. References are now made to both Quebec and Ontario current legislation with respect to Rules terminology, jurisdiction and effect of the Rules.

The definitions in Rule 1.2 are re-ordered alphabetically. Definitions in Rule 1.2, and Rules 7.2.6 and 7.3.2 are amended to use the correct defined terms. Rule 1.3.5 refers to facsimile rather than telecopier, consistent with Rules 1.3.6 and 5.10. In Rule 7.6.4, reversed references to “pledgor” and “pledgee” are corrected.

These amendments were reviewed and approved by the Board of Directors¹ of The Canadian Depository for Securities Limited on January 20, 2010.

B. REASONS FOR TECHNICAL CLASSIFICATION

The amendments proposed pursuant to this Notice are considered technical amendments as:

- (i) the amendments to Rule 1.3.9(f) are required to ensure consistency or compliance with an existing rule, securities legislation or other regulatory requirement;
- (ii) the other amendments are required for the correction of spelling, punctuation, typographical or grammatical mistakes or inaccurate cross-referencing.

C. EFFECTIVE DATE OF THE CDS RULE AMENDMENTS

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:

Legal Department
CDS Clearing and Depository Services Inc.
85 Richmond Street West
Toronto, Ontario M5H 2C9
Fax: 416-365-1984
e-mail: attention@cds.ca

¹ 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.

APPENDIX A

CDS TECHNICAL/HOUSEKEEPING RULE AMENDMENTS

Text of CDS Participant Rules marked to reflect proposed amendments	Text CDS Participant Rules reflecting the adoption of proposed amendments
<p>1.2.1 Definitions For the purposes of the Legal Documents, unless otherwise specified:</p> <p><i>Move the definitions of the terms "Euroclear UK Direct Charges", "Euroclear UK Direct Participant" and "Euroclear UK Direct Service" so that these terms are placed between the terms "Euroclear UK & Ireland" and "Exchange" instead of between the terms "CREST" and "CREST Software".</i></p> <p>"FINet Obligation" means a Central Counterparty Obligation between CDS and a Participant that is calculated as the result of the processing of Trades, prior to Settlement, in the <u>FINet FiNet</u> Function.</p> <p>"TA Participant" means a <u>Participant</u> participant who is classified as such by CDS pursuant to Rule 2.3.2.</p> <p>1.3.5 Notice from CDS to Participants (a) Method Of Giving Notice To Participants Generally When CDS gives a notice under the Rules or Participant Agreement that is directed to Participants generally or to a group of Participants, the notice shall be: (iii) sent by confirmed recorded telecommunication to the <u>telecopier facsimile</u> number provided by each Participant to whom the notice is directed; or</p> <p>(b) Method For Giving Notice To A Particular Participant When CDS gives a notice under the Rules or Participant Agreement that is directed to a particular Participant, the notice shall be: (iii) sent by confirmed recorded telecommunication to the <u>telecopier facsimile</u> number provided by the Participant; or</p> <p>(d) Address For Notice Each Participant shall provide CDS with an appropriate e-mail address, street address, lock box number and <u>telecopier facsimile</u> number for purposes of this Rule, and CDS may rely upon the most recent notification provided by a Participant.</p> <p>1.3.9 CDS as Clearing Agency The Autorité des marchés financiers has authorized CDS to carry on clearing activities in Québec pursuant to the <i>Securities Act</i> of Quebec. The Ontario Securities Commission has designated CDS as a recognized clearing agency pursuant to the Business Corporations Act and the <i>Securities Act</i> of Ontario. <u>The Securities Transfer Act, 2006 of Ontario ("Ontario STA") and the Act Respecting the Transfer of Securities and the Establishment of Security Entitlements of Quebec ("Quebec STA") refer to clearing agency transactions.</u> CDSX has been designated as a clearing and settlement system under Part I of the <i>Payment Clearing and Settlement Act</i> of Canada. Accordingly, CDS and each Participant acknowledge that: (a) CDS is a "clearing agency" and a "securities intermediary" as those terms are defined in the <u>Ontario STA</u> and in the</p>	<p>1.2.1 Definitions For the purposes of the Legal Documents, unless otherwise specified:</p> <p><i>Move the definitions of the terms "Euroclear UK Direct Charges", "Euroclear UK Direct Participant" and "Euroclear UK Direct Service" so that these terms are placed between the terms "Euroclear UK & Ireland" and "Exchange" instead of between the terms "CREST" and "CREST Software".</i></p> <p>"FINet Obligation" means a Central Counterparty Obligation between CDS and a Participant that is calculated as the result of the processing of Trades, prior to Settlement, in the FINet Function.</p> <p>"TA Participant" means a Participant who is classified as such by CDS pursuant to Rule 2.3.2.</p> <p>1.3.5 Notice from CDS to Participants (a) Method Of Giving Notice To Participants Generally When CDS gives a notice under the Rules or Participant Agreement that is directed to Participants generally or to a group of Participants, the notice shall be: (iii) sent by confirmed recorded telecommunication to the facsimile number provided by each Participant to whom the notice is directed; or</p> <p>(b) Method For Giving Notice To A Particular Participant When CDS gives a notice under the Rules or Participant Agreement that is directed to a particular Participant, the notice shall be: (iii) sent by confirmed recorded telecommunication to the facsimile number provided by the Participant; or</p> <p>(d) Address For Notice Each Participant shall provide CDS with an appropriate e-mail address, street address, lock box number and facsimile number for purposes of this Rule, and CDS may rely upon the most recent notification provided by a Participant.</p> <p>1.3.9 CDS as Clearing Agency The Autorité des marchés financiers has authorized CDS to carry on clearing activities in Québec pursuant to the <i>Securities Act</i> of Quebec. The Ontario Securities Commission has designated CDS as a recognized clearing agency pursuant to the <i>Securities Act</i> of Ontario. The <i>Securities Transfer Act, 2006</i> of Ontario ("Ontario STA") and the <i>Act Respecting the Transfer of Securities and the Establishment of Security Entitlements of Quebec</i> ("Quebec STA") refer to clearing agency transactions. CDSX has been designated as a clearing and settlement system under Part I of the <i>Payment Clearing and Settlement Act</i> of Canada. Accordingly, CDS and each Participant acknowledge that: (a) CDS is a "clearing agency" and a "securities intermediary" as those terms are defined in the Ontario STA and in the Quebec STA;</p>

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<p>Quebec STA Securities Transfer Act, 2006 of Ontario (“STA”);</p> <p>(b) each Participant is an “entitlement holder” of CDS, as that term is defined in the STA <u>Ontario STA and in the Quebec STA</u>;</p> <p>(c) instructions given by Participants with respect to Securities held by CDS are “entitlement orders”, as that term is defined in the STA <u>Ontario STA and in the Quebec STA</u>;</p> <p>(d) financial assets referred to in the Rules are “financial assets”, as that term is defined in the STA <u>Ontario STA and in the Quebec STA</u>;</p> <p>(e) the Legal Documents constitute the agreement <u>or juridical act</u> between CDS as the securities intermediary and the Participants as entitlement holders governing the securities accounts maintained by CDS for each Participant and for itself, as that agreement <u>or juridical act</u> is referred to in the STA <u>Ontario STA and in the Quebec Civil Code respectively</u>; and</p> <p>(f) the Ledgers maintained by CDS for Participants and for itself are (i) securities accounts referred to in the STA Ontario STA and in the Quebec STA; and and (ii) the accounts of the clearing house referred to in section 10.2 of the Securities Act of Quebec.</p> <p>(g) <u>the Legal Documents constitute the rules of the clearing agency and are entitled to the protection of section 7 of the Ontario STA and of section 4 of the Quebec STA.</u></p> <p>7.2.6 Mode of Settlement Each Trade must include a mode of settlement indicator that is one of Trade-for-Trade or CNS. The mode of settlement indicator is either included in the instructions when the Trade is reported or confirmed, or is added automatically by the system in accordance with the criteria in the Procedures and user <u>User</u> Guides.</p> <p>7.3.2 Eligibility ... A current or past or future value-dated Trade may be processed prior to Settlement through FiNet FINet, if FINet applies automatically to that class of Trades and if the Trade meets the eligibility criteria set out in the Procedures and the criteria set out in each Participant’s service options.</p> <p>7.6.4 Pledge ... So long as the Pledged Securities or funds remain in the Collateral Account of the pledger <u>pledgee</u> Participant to whom they are Pledged, CDS also reflects the delivery of such Securities or funds in the Pledge Account for the pledgee <u>pledgor</u> Participant who made the Pledge. ...</p>	<p>(b) each Participant is an “entitlement holder” of CDS, as that term is defined in the Ontario STA and in the Quebec STA;</p> <p>(c) instructions given by Participants with respect to Securities held by CDS are “entitlement orders”, as that term is defined in the Ontario STA and in the Quebec STA;</p> <p>(d) financial assets referred to in the Rules are “financial assets”, as that term is defined in the Ontario STA and in the Quebec STA;</p> <p>(e) the Legal Documents constitute the agreement or juridical act between CDS as the securities intermediary and the Participants as entitlement holders governing the securities accounts maintained by CDS for each Participant and for itself, as that agreement or juridical act is referred to in the Ontario STA and in the Quebec <i>Civil Code</i> respectively;</p> <p>(f) the Ledgers maintained by CDS for Participants and for itself are securities accounts referred to in the Ontario STA and in the Quebec STA; and</p> <p>(g) the Legal Documents constitute the rules of the clearing agency and are entitled to the protection of section 7 of the Ontario STA and of section 4 of the Quebec STA.</p> <p>7.2.6 Mode of Settlement Each Trade must include a mode of settlement indicator that is one of Trade-for-Trade or CNS. The mode of settlement indicator is either included in the instructions when the Trade is reported or confirmed, or is added automatically by the system in accordance with the criteria in the Procedures and User Guides.</p> <p>7.3.2 Eligibility ... A current or past or future value-dated Trade may be processed prior to Settlement through FINet, if FINet applies automatically to that class of Trades and if the Trade meets the eligibility criteria set out in the Procedures and the criteria set out in each Participant’s service options.</p> <p>7.6.4 Pledge ... So long as the Pledged Securities or funds remain in the Collateral Account of the pledgee <u>pledgor</u> Participant to whom they are Pledged, CDS also reflects the delivery of such Securities or funds in the Pledge Account for the pledgor <u>pledgee</u> Participant who made the Pledge. ...</p>