

13.3 Clearing Agencies

13.3.1 CDS – Material Amendments to CDS Procedures Relating to Transfer Agents – Notice of Approval

**THE CANADIAN DEPOSITORY FOR SECURITIES LIMITED
AND
CDS CLEARING AND DEPOSITORY SERVICES INC.**

NOTICE OF APPROVAL

MATERIAL AMENDMENTS TO CDS PROCEDURES RELATING TO TRANSFER AGENTS

Introduction

Pursuant to Appendix “A” of Schedule “B” of the CDS Recognition Order (RO) the Commission approved on December 22, 2016, amendments to the CDS Procedures (“CDS Transfer Agent Procedures”) to implement new transfer agent (TA) standards. The Amendments were published for public comment in a Notice and Request for Comments on August 4, 2016.

Reasons for the Amendments

CDS is considered a systemically important Financial Market Infrastructure (FMI) in the Canada capital markets and therefore must adhere to the Principles for Financial Market Infrastructures (PFMIs), published in April 2012 by the Committee on Payments and Market Infrastructures of the International Organization of Securities Commissions (CPMI-IOSCO)¹.

Principle #17 of the PFMIs requires FMIs to identify sources of operational risk both internal and external and to mitigate the impact of risk through the use of systems, policies, procedures, and controls.

Because CDS provides direct access to its systems for TAs to effect depository activities related to securities under the TA's control, CDS needs to have the ability to impose certain standards to ensure that external parties that connect to CDS do not pose undue operational risks to CDS.

Summary of Comments

CDS received two (2) comment letters in response to the proposed TA standards in the Notice and Request for Comments. A summary of the comments submitted, together with CDS's response, is attached at **Appendix A**.

No changes have been made with respect to the Amendments outlined in the Notice and Request for Comments.

Effective Date

These procedures are effective following approval by all CDS' recognizing regulators.

¹ <http://www.bis.org/cpmi/publ/d101a.pdf>

APPENDIX A

SUMMARY OF COMMENTS AND RESPONSES

List of Commenters:

1. National Issuer Services Limited
2. Securities Transfer Agent Association of Canada (STAC)

Capitalized terms used and not otherwise defined shall have the meaning given in the Request for Comments published on the OSC website on August 4, 2016.

Notice and Request for Comment – Proposed CDS Transfer Agent Standards

Comment	CDS Response
A commenter requested that CDS provide details of how the proposed requirements measure against and mitigate the specific PFMI risks that have been identified.	CDS provided specific reference to PFMI 17 and to the reliance risk assumed by CDS in the Description of the Proposed Amendments and the Background section of the Notice. The proposed standards mitigate this reliance risk.
A commenter requested that CDS confirm that the exemptions proposed in the notice will not be modified or eliminated.	CDS cannot confirm that the exemption from certain requirement extended to existing CDS-approved transfer agents will not be modified or eliminated. While we have made accommodation for existing transfer agents, in the event that domestic or international regulation or guidance requires it, CDS must remain in a position to modify our standards.
A commenter noted that the requirement to obtain evidence of good standing from a regulator is outside of transfer agents' control.	CDS acknowledges the concern in respect of obtaining evidence of good standing from transfer agents' primary regulator; this requirement is, however, central to CDS's proposed standards, and is a requirement of each of CDS's Participants.
A commenter requested clarification regarding the requirement for a Financial Institution Bond.	<p>Transfer agents are not regulated for prudential purposes. The Financial Institution Bond requirement, which is a part of the CDS Participant Agreement (and therefore not a new requirement for Limited Purpose Transfer Agent Participants) addresses the indirect operational and financial risks posed to CDS by our interaction with the transfer agent community.</p> <p>Unlike Rule 11.2.4, the intent of the FIB requirement (the requirements for which currently appear in the Participation Agreement) is to account for risks such as confirmation of erroneous deposits and late or missed entitlement payments.</p>
A commenter requested clarification regarding the acceptability of audited financial statements of a transfer agent's parent entity.	CDS will consider, on a case-by-case basis, the situation in which audited financial statements are only available for a parent entity. We do not propose to change the proposed requirement at this time.
A commenter noted the absence of a proposed timeline for requiring existing CDS-approved transfer agents that are not trust companies to provide the annual third party verification, the FIB and annual audited financial statements.	CDS did not include a specific timeline in order to ensure that the implementation of the requirements, and the provision of appropriate documentation, did not unduly affect the operations of individual transfer agents. CDS will take account of individual entities' responses and requirements in determining any such timeline.

Comment	CDS Response
A commenter requested clarification as to whether being regulated by the Securities Exchange Commission (SEC) whose mandate includes supervision of transfer agents would be sufficient regulation of internal controls.	CDS will consider on a case by case basis whether regulation of a transfer agent outside of Canadian jurisdiction would constitute sufficient regulation of internal controls. CDS is not, however, in a position to make specific reference to particular jurisdictions or regulators.