

13.3.2 CDS Clearing and Depository Services Inc. (CDS®) – Material Amendments to CDS Procedures – New York Link (NYL) Service – Request for Comments

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

MATERIAL AMENDMENTS TO CDS PROCEDURES

NEW YORK LINK (NYL) SERVICE

REQUEST FOR COMMENTS

A. DESCRIPTION OF THE PROPOSED CDS PROCEDURE AMENDMENTS

The proposed CDS procedure amendments relate to the establishment of earlier collateral requirement deadlines for the NSCC Participant Fund for New York Link.

A revised Notice regarding material amendments to CDS Participant Procedures concerning DTC Direct Link and New York Link Services was provided by CDS for regulatory consideration on September 17, 2009.

The Notice contained the following text:

Adjustment of the collateral requirement deadlines for the NSCC Participant Fund (RBM collateral held directly by NSCC) for New York Link participants.

NSCC's final deadline for its participants to pledge daily RBM collateral is 10:00 a.m. ET. For a six-month minimum period beginning November 2, 2009, NSCC will temporarily permit CDS to pledge the daily RBM collateral to NSCC by 12:00 p.m. ET as opposed to the 10:00 a.m. ET deadline.

In order to comply with NSCC's transitional collateral requirement deadline of 12:00 p.m. ET, CDS will move the initial collateral requirement deadline for the NSCC Participant Fund for New York Link from the current 12:00 p.m. ET deadline to 11:00 a.m. ET and the final collateral requirement deadline for the NSCC Participant Fund for New York Link will move from the current 1:00 p.m. ET deadline to 11:30 a.m. ET for all New York Link participants. Since NSCC will require CDS to comply with its 10:00 a.m. ET final deadline after the transition period, the participant deadlines will eventually change to two hours earlier in the business day. The transition period is meant to allow participants enough time to plan their processes in preparation for the earlier deadline that would be imposed after the transition period has expired.

In order to comply with NSCC's final collateral requirement deadline of 10:00 a.m. ET, beginning on Monday, May 3, 2010, CDS will move the initial risk based margin (RBM) collateral requirement deadline for the NSCC Participant Fund for New York Link from the current 11:00 a.m. ET deadline to 9:00 a.m. ET and the final collateral requirement deadline for the NSCC Participant Fund for New York Link will move from the current 11:30 a.m. ET deadline to 9:30 a.m. ET for all New York Link participants. The implementation of the new deadline is due to the expiry of the six month temporary extension of the deadline that was provided by NSCC to CDS as of November 2, 2009.

B. NATURE AND PURPOSE OF THE PROPOSED CDS PROCEDURE AMENDMENTS

The proposed amendments to the participant procedures are intended to provide CDS with sufficient time to ensure that all the required collateral is received from participants and to transfer the collateral once validated to NSCC in order to meet NSCC's collateral requirement deadline of 10:00 a.m. ET which CDS must observe beginning on May 3, 2010.

C. IMPACT OF THE PROPOSED CDS PROCEDURE AMENDMENTS

The adjustment of the collateral requirement deadlines for NYL participants to wire transfer RBM collateral for the NSCC Participant Fund for New York Link will require participants to modify their internal deadlines and collateral management procedures in order to meet the earlier deadlines. Participants will also need to ensure that the necessary arrangements are made with their funding banks in order to ensure that funds required to fulfill their collateral requirements are transferred prior to the deadline. Additionally, participants in western Canada may need to make special arrangements to meet the new collateral deadlines due to different time zones which may result in additional resource costs to comply with the requirements

The NYL participants have been aware of the impending earlier deadlines for several months.

C.1 Competition

It is expected that the proposed amendments to CDS's participant procedures will have no impact on the competitive environment.

While CDS sponsored participants have the option of becoming a direct member of NSCC/DTC and in so doing be subject to NSCC's 10 a.m. ET collateral requirement deadline (rather than CDS's 9:00 a.m. and 9:30 a.m. deadlines), it is not expected that any of CDS's sponsored participants will choose to become direct members of NSCC/DTC because of this change to CDS's collateral requirement deadlines.

All CDS sponsored participants using the NYL service will be required to comply with the earlier collateral requirement deadlines.

C.2 Risks and Compliance Costs

While there is a possibility that participants who do not meet the new collateral requirement deadlines for the NSCC Participant Fund for New York Link may be fined or suspended from CDS's services, the new amendments to the participant procedures outlined in this Notice are not expected to introduce any new risks to the participants. However, participants in western Canada may need to make special arrangements to meet the new collateral deadlines due to different time zones which may result in additional resource costs to comply with the requirements.

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

CDS's proposed amendments are intended to be consistent with IOSCO's recommendation 11 for central counterparties, whereby "CCPs that establish links either cross border or domestically to clear trades should evaluate the potential sources of risk that can arise, and ensure that the risk is managed prudently on an ongoing basis. There should be a framework for cooperation and coordination between the relevant regulators and overseers".

D. DESCRIPTION OF THE PROCEDURE DRAFTING PROCESS

D.1 Development Context

CDS's participant procedures related to the NYL service were reviewed by CDS staff in order to identify the impacts to them of the earlier collateral requirement deadline imposed on CDS by NSCC.

The proposed amendments to CDS's participant procedures related to the NYL service that were identified by CDS staff were then incorporated within the existing CDS's participant procedures related to the NYL service and reviewed by CDS staff.

The proposed amendments to CDS's participant procedures related to the NYL service were then reviewed and approved by CDS management.

CDS internal procedures related to the NYL service were also reviewed by CDS staff and they will also be amended where necessary to reflect the changes that have been proposed to CDS's participant procedures that are detailed within this notice.

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.

These amendments were reviewed and approved by the SDRC on February 11, 2010.

D.3 Issues Considered

Participants may need to make special arrangements with their funding banks in order to meet the new deadline. Through the consultation process, all participants have indicated that they will be able to make the necessary arrangements to meet the new deadline.

A NYL participant, through the SDRC, has asked CDS to consider providing a daily automated notification of NYL participants' NSCC Participant Fund for NYL collateral requirements. As such, a related work request has been created and it will follow CDS work request protocol.

D.4 Consultation

NYL participants were advised of the impending change to the collateral requirement deadlines during meetings and conference calls of the NYL/DDDL initiative working group that took place prior to November 2, 2009.

CDS bulletins describing the impending change to the collateral requirement deadlines were also released on September 21, 2009 and October 30, 2009.

A CDS bulletin reminding NYL participants of the upcoming change to the collateral requirement deadlines will be released prior to its implementation on May 3, 2010.

D.5 Alternatives Considered

No alternatives were considered.

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. Implementation of these changes is planned for May 3, 2010.

E. TECHNOLOGICAL SYSTEMS CHANGES

E.1 CDS

The amendments to the participant procedures do not require any technological systems changes by CDS.

E.2 CDS Participants

It is not expected that participants will be required to make any technological systems changes as a result of these amendments to the participant procedures.

E.3 Other Market Participants

There is no anticipated impact to other market participants.

F. COMPARISON TO OTHER CLEARING AGENCIES

Direct members of NSCC/DTC are required to provide RBM collateral to NSCC by 10:00 a.m. ET on a daily basis. CDS's initial deadline of 9:00 a.m. ET is due to the coordination efforts required by CDS prior to submitting the collateral to NSCC.

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 submitted within 30 calendar days following the date of publication of this Notice in the Ontario Securities Commission Bulletin to:

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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:

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

I. PROPOSED CDS PROCEDURE AMENDMENTS

Due to formatting issues the 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 can be accessed by clicking the following link.

Refer to <http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-blacklined?Open> to review the affected procedure amendments.