13.3 Clearing Agencies

13.3.1 CDS – Proposed Amendments to CDS Fee Schedule re Issuer Services Program – Notice and Request for Comment

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

PROPOSED AMENDMENTS TO CDS FEE SCHEDULE RE ISSUER SERVICES PROGRAM

NOTICE AND REQUEST FOR COMMENT

DESCRIPTION OF THE ISSUER SERVICES PROGRAM

CDS proposes to amend its Fee Schedule for certain services which have been, and are currently, provided to securities issuers. As a recognized clearing agency under the Ontario *Securities Act* and the British Columbia *Securities Act*, and a recognized clearing house under the Quebec *Securities Act*, CDS is providing this Notice and Request for Comment in accordance with the recognition requirements of each of these jurisdictions. CDS is requesting regulatory approval for the proposed Issuer Services Program fees pursuant to Section 7.8 of Schedule B – Terms and Conditions of the Ontario Securities Commission's ("OSC") Recognition Order, pursuant to Article 26.6 of Recognition Decision 2012-PDG-0142 of the *Autorité des marchés financiers du Québec* ("AMF"), and pursuant to Section 9 of the British Columbia Securities Commission ("BCSC") Recognition Order, each as amended. A list of the proposed amendments appears in Appendix "A" attached to this Notice.

CDS's services, including the issuance of International Security Identification Numbers ("ISINs"), depository eligibility, securities registration-related services including certificate and late request fees and, most critically, entitlement and corporate action ("E&CA") event management (collectively, the "Issuer Services") provide significant value and efficiency to issuers. At this time, however, CDS charges only for ISIN issuance, depository eligibility, and registration-related services, and does not charge issuers for E&CA event management. Furthermore, for certain Issuer Services (e.g., fees for certificates), CDS has determined that a fee reduction is warranted where those services require fewer resources and management.

The proposed Issuer Services fees are based on the following guiding principles:

1. Value-added services provided by CDS warrant compensation by those using and benefiting from the Services.

2. Fees should be based on the service cost, the operational risk of service delivery, the collections risk, and for a reasonable rate of return.

3. CDS requires service revenue to fund current and future infrastructure and system development including: overhaul of an end-of-life entitlements and corporate actions system; and service improvements, enhancements, and modernization for the benefit of the Canadian markets.

4. Service fees should provide economic incentives to encourage market innovation and more standardized and automated transaction processing.

5. CDS must generate shareholder value and a reasonable return on investment while remaining a cost-competitive service provider to the financial industry.

CDS has consulted with a wide variety of stakeholders to ensure that the proposed fees are consistent with the value provided, are easy to understand, are uniformly applied, reflect the risk management offered by CDS as a central hub for securities processing including the dissemination of E&CA information and the management of those events, and align with both domestic and global benchmarks. The proposed amendments to the CDS Fee Schedule are:

I. The introduction of E&CA event management fees and optional agency fees;

II. The simplification and standardization of the pricing structure for ISIN Issuance services; and

III. The introduction of a security eligibility administration fee, a certificate fee and late request fees.

Subject to regulatory approval, CDS intends to implement the proposed amendments in the first quarter of 2015 upon appropriate notice to stakeholders.

NATURE, PURPOSE AND IMPACT OF THE PROPOSED AMENDMENTS

Background

E&CA event management provides significant value to issuers and at the same time, if not executed properly, has the potential to cause operational and financial losses. These processes are, consequently, a major focus for CDS, for financial market intermediaries, and for their stakeholders. In 2013, CDS processed $3.35T in entitlements and corporate action payments. Since CDS Participants are charged, per transaction, for the movement of funds or securities into their ledgers, CDS is only compensated when security holders receive payments of cash or securities. CDS is not compensated at all for the set-up and management of the event lifecycle for voluntary or mandatory events with an option which result in no holder participation and no receipt of cash or securities. CDS does not currently charge issuers for management of their E&CA events.

CDS proposes to amend its Issuer Services fees in order to meet its ongoing operational needs and Participant and stakeholder development requirements. These operational needs and development requirements consume significant resources, and improvements are only possible through ongoing system modernization. The proposed Issuer Services fees are intended to ensure that CDS is able to fulfill its mandate of offering multi-asset-class clearing, settlement, and depository services and is able to maintain and modernize its technology infrastructure to provide continuous improvement to a marketplace in which issuers continue to create new and innovative securities. In 2013, for example, CDS conducted an internal evaluation to focus on opportunities for improvement to its entitlement and corporate actions processing system (CDS's Network Custody & Clearing System). The proposed Issuer Services fees will both contribute to and defray the cost of that investment. CDS provides, and intends to continue to provide issuers with a robust market infrastructure that, amongst other things, ensures issuers and their agents access to various securities issuance and administration processes at a globally competitive price.

Entitlement and Corporate Action Event Management Fees

The costs and processing risks of CDS's E&CA event management activities, including the dissemination of entitlements and corporate actions information to downstream shareholders, are currently absorbed entirely by CDS rather than by the issuers to which the benefits of these Services accrue.

The proposed amendments to the Fee Schedule will affect CDS issuers who distribute entitlements and/or undergo corporate action events. Per-event fees will be applied to specific Issuer Services. Each fee is based upon the complexity of a particular event, the extent to which manual processing is required, and the risk CDS bears to manage that event. The proposed fees are as follows:

1. Money Market interest and maturity events ($10/event)
2. NHA interest events ($10/event) and maturity events ($20/event)
3. Interest event ($100/event) and Maturity event ($150/event)
4. Dividend event ($100/event)
5. Corporate Action events with no option ($250/event)
6. Corporate Action events with option ($250/event)
7. Exchange Traded Fund Events ($250/event)

CDS's facilities enable Participants and Limited Purpose TA Participants ("LP TA") to act on behalf of an issuer in the role(s) of Paying Agent (Entitlements Processor) and Depositary Agent in order to manage release of entitlement payments and securities tenders. If the Paying Agent or Depositary Agent is unable to, or chooses not to, manage its own events where a facility exists for them to do so, CDS manages these functions for a fee. CDS proposes the following agency fees:

(i) Agency fee – paying agent ($50/event)

(ii) Agency fee – depositary agent ($100/event)

The impact of the proposed E&CA event management fees on debt and equity security issuers will depend on the number of events managed for that issuer, the type of events and the effort and resources required to process those events. For context, CDS processed 183,000 events in 2013 at a cost, per dollar distributed, of only a few 1/100ths of a basis point. CDS's analysis also indicates that in 2013, only 2,850 of 7,400 Canadian issuers (approximately 39 percent) whose securities were deposited at CDS paid an entitlement or ran a corporate action event. Consequently, 61 percent of issuers would not have been impacted by the proposed E&CA event management fees.

In 2013, only 5 percent of issuers (approximately 140) accounted for 80 percent (approximately 130,000) of the E&CA events. Large banks and other financial institutions who are significant issuers of equity, debt and money market instruments, would be among the most impacted by the proposed E&CA event management fees. Exchange Traded Fund issuers and asset-backed security issuers would also be impacted because entitlements (interest) and/or corporate action event notifications for such securities are typically run monthly. It is also important to note that a significant number of events falling into the latter category are not taken up by shareholders (approximately 4,000 events had no responses in 2013), resulting in no revenue to CDS despite the significant event management effort expended by CDS.

By contrast, the least-active 63 percent of issuers in 2013 accounted for only 3 percent of E&CA events. Under the proposed fee structure, the average annual cost, per issuer, would be between $300 and $1,050 depending on the event type and the issuers' agency needs. Junior market issuers for example, generate very little E&CA event volume and are not heavy users of CDS's E&CA event management services. The majority of such junior issuers will be among the least impacted by the proposed fees.

<u>Simplified Pricing for ISIN Issuance</u>

In order for an issuer's security to be uniquely identified by CDS's depository, clearing and settlement systems and to allow for the wide tradability of that security in Canada, an issuer must obtain an ISIN for that security. Issuers apply to CDS Securities Management Solutions Inc. ("CDS SMS") for each ISIN. CDS proposes to amend the existing fees for ISIN issuance and implement a single base price reflective of both the issuance of a standard product (the ISIN) and the resource and time expended by CDS SMS in issuing the ISIN. This single base price structure will eliminate any price imbalance and ensure end-to-end ISIN issuance fee transparency.

The proposed fees will affect all CDS issuers who require an ISIN. New fees will be standardized at a base price; additional charges will be applied depending on the type of ISIN issued (single ISINs, serial ISINs, strip bonds and strip packages). Issuer Code requests will be charged on a per-code basis. The proposed fees are as follows:

1. Single ISIN ($160/ISIN + Standard & Poors pass-through charge (if applicable));
2. Serial ISINs ($160/ISIN + $35/additional ISIN);
3. Strip bond ISINs and strip package ISINs ($160/generic ISIN);
4. Issuer Code requests ($160/issuer code).

<u>Security Eligibility Administration Fee, Certificate Fee and Late Request Fees</u>

In addition to the foregoing, CDS is proposing to implement an eligibility administration fee, to re-designate and, in the case of Book Entry Only certificate fees, reduce existing eligibility fees for the sake of accuracy and transparency, and to implement three levels of late request fees.

Security Eligibility Administration Fee

Processing an eligibility request for non-money market securities involves substantial time and resources to review the offering documents (such as prospectuses and term-sheets), to identify the details or features required to meet CDS eligibility requirements and, finally, to manually transpose the detail into CDS systems. CDS proposes to implement an eligibility administration fee for this service which will be applied upon the submission of the request for eligibility. By contrast, the eligibility administration of money market securities is handled within CDS systems by CDS Participants themselves with automated processing. Money market eligibility fees, which are currently on the CDS Fee Schedule, are applied when the security is activated in CDS systems and will continue to apply to eligibility requests for these securities.

The proposed Security Eligibility Administration fee of $475/eligibility request will affect issuers requesting depository eligibility for their securities.

Certificate Fee

CDS has re-designated existing eligibility fees as a certificate/certification disincentive fee which reflects CDS's objective of promoting and supporting the dematerialization and/or immobilization of securities at CDS. Certificates, for example, require review to verify that the certificate is negotiable and that certificates are below acceptable maximum values under appropriate CDS insurance requirements. Certificates also require the management of tracking and physical receipt in CDS systems as well as vaulting and all associated costs. The cost to maintain global certificates for Book Entry Only securities is far less, and only one certificate is maintained for the issue. Dematerialization and immobilization eliminates paper-related cost and risk.

CDS proposes to reduce the existing certificate fee for Book Entry Only securities from $550 to $125 for all requests since these certificates require less management and have a reduced risk for CDS.

Late Request Fees

When a depository eligibility request is received less than 48 hours before a closing, the result is a priority processing effort at substantial resource opportunity-cost and risk for CDS. The processing of these late requests inevitably delays other activities for which CDS is responsible, and the risk and consequences of any processing delays fall on CDS. The introduction of a fee for late eligibility requests is intended to discourage such late requests and their associated costs and risks.

Late Request fees will be charged in the event that an issuer's request for depository eligibility is received outside of CDS's established time-frames.

The proposed late request fees are as follows:

a. If a request is received less than 48 hours but more than 24 hours before the closing date, a late fee of $2,000;

b. If a request is received less than 24 hours before the closing date, a late fee of $5,000; and

c. If a request is received on the closing date, a late fee of $10,000.

Competition

The proposed amendments to the Fee Schedule for Issuer Services are not expected to have an impact on competition for CDS, its issuers or its Participants. All issuers will be charged equally, which is consistent with CDS's business practice and with CDS's obligations under its regulatory framework. The intent of the proposed amendments to the Fee Schedule for Issuer Services is to provide for a significantly more balanced, value-for-service based service fee payable by the recipient of the applicable services. Additional detail with respect to CDS's international comparators can be found in the section entitled "Comparison to International Clearing Agencies", below.

It is also important to note that alternatives to centralized immobilization of securities, and to the use of CDS as a single payee and information processor, are available to issuers, including self-processing by issuers in the case of E&CA events. However, it is CDS's view that those alternatives are not consistent with Canada's indirect holding system for securities and would cost issuers significantly more than the fees being proposed under this Issuer Services Program.

Contractual Framework

The mechanism by which CDS proposes to levy the Issuer Services fees varies according to the nature of the security and the nature of the relationship between CDS and the issuer.

Issuers having appointed a Limited Purpose Transfer Agent ("LP TA") Participant in CDS

The majority of issuers whose securities are eligible for deposit or processing at CDS have appointed a Transfer Agent for that purpose. In most cases, CDS will invoice the Transfer Agent for Issuer Services, and sufficient detail will be provided to enable Transfer Agents' client billing processes.

The receipt of entitlement payments and the set-up and management of corporate actions are settlement and depository services functions for which CDS is permitted to impose fees under the CDS Participant Rules. CDS proposes to charge each LP TA for the Issuer Services provided to issuers that the LP TA represents. To the extent that there is a risk of non-payment of Issuer Services fees by issuers to the LP TA Participant representing them, CDS will assume this risk.

Issuers having appointed a Transfer Agent which is party to a standard form CDS Transfer Agent Agreement ("TA Agreement")

CDS intends to make amendments to the TA Agreement to provide for the invoicing of the Transfer Agents for Issuer Services prior to implementing the proposed Issuer Services fees for TAs who are not CDS Participants. These amendments will substantively mirror a similar term in the CDS Book-Entry-Only Security Services Agreement. CDS intends to charge non-Participant TAs for Issuer Services fees appearing on the CDS Fee Schedule.

Issuers acting as their own Transfer Agent or otherwise not party to an agreement with CDS

This group consists of a very small number of entities. An issuer may choose to comply with securities legislation without engaging a transfer agent (by maintaining its own shareholders' register and arranging for entitlement payments and corporate actions itself, for example). CDS intends to work with these entities to move them towards either the TA Agreement or participation in CDS as an LP TA.

THE FEE SETTING PROCESS

Development Context

The proposed amendments to the Fee Schedule for Issuer Services were submitted to the CDS Participant Fee Committee for review and comment and were the subject of discussion at two Fee Committee meetings. The CDS Fee Committee did not disapprove of CDS's proceeding with the submission of the proposed fees for regulatory approval.

Prior to submission for regulatory approval, the proposed fees were tabled with the CDS Risk Management and Audit Committee ("RMAC") of its Board of Directors for review and comment. The RMAC made no changes to the proposed fees as presented by CDS management and instructed CDS to proceed to submit the proposed fees for regulatory approval.

Consultation

CDS met with multiple stakeholders, including materially impacted issuers, CDS Participants, government agencies, and intermediaries including Transfer Agents who currently interact with CDS. Feedback from the aforementioned entities included the suggestion that the fees should be lower in certain cases where processing is substantially fully automated and the suggestion that CDS review certain parts of the pricing model in which stakeholders felt that costs were inelastic. The proposed pricing for these services was adjusted in line with the costs to CDS of providing the service, and the associated operational risks.

Alternatives Considered

As noted in the guiding principles, the provision of value-added Issuer Services is not financially viable without compensation for such services. Consequently, the alternatives considered relate to what services CDS proposes to charge for, and whom and how CDS proposes to charge for those services.

CDS considered entering into individual contractual relationships with each securities issuer. This alternative, however, was determined unfeasible for two principal reasons: first, creating a new contractual framework for all issuers would be complex, time-consuming, and financially burdensome to all stakeholders; and second, issuers who have appointed Transfer Agents have done so for the express purpose of managing their relationships with securities intermediaries and shareholders and negotiating and establishing direct relationships based on standard form agreements with issuers may reduce, rather than enhance, market efficiency.

CDS considered charging E&CA event management fees only to Participants instead of to issuers. This alternative does not, however, address the inherent imbalance between the allocation of costs between stakeholder groups; issuers will continue to receive the benefit of E&CA event management, without charge, at the expense of Participants. It would be inequitable and contrary to the spirit of CDS's public interest mandate to provide services to one stakeholder at the expense of another. In principle, CDS is of the view that while Participants pay for the distribution of payments to their accounts, issuers, who benefit from the reduced cost and risk offered by CDS, should pay for the value received.

COMPARISON TO INTERNATIONAL CLEARING AGENCIES

CDS's review of its international comparators has revealed significant variance in the nature of the relationships between Central Securities Depositories and issuers and, consequently, in the fees charged for Issuer Services. These relationships include issuer as participant, issuer via participant or other agent, or issuer directly. Issuers on SGX (Singapore), DTCC (United States), and SIX (Switzerland), for example, must use participant intermediaries to represent them at the issuance stage and often over the course of a security's existence. In contrast, STRATE (South Africa) has a specific 'Issuer' participant category which directly binds issuers to STRATE's rules and pricing. CDS does not have a specific issuer-as-Participant category, and allows issuers or their legal counsel to apply for security eligibility without involving an intermediary bound by CDS's Participant Rules.

Levying depository eligibility administration fees is not uncommon internationally, and the proposed fee types and prices for CDS's services are either equivalent to or less than those of DTCC, CDS's closest comparator, and are below the prices for such services at CDS's other international comparators. ASX (Australia) currently bundles eligibility fees with its listing fees (although ASX may, in the future, be unbundling these fees and charging them separately). The proposed late request fees also mirror disincentive fees currently levied by DTCC.

While the variety of issuer/CSD structures and relationships preclude direct concordance with CDS's proposed fees for Issuer Services, CDS's review of global benchmarks and publicly available fee information for its comparators reveals that E&CA event management is already entrenched in international jurisdictions' fee structures.

In comparison to CDS's maximum per-event charge of $250:

– Indéval (Mexico) and STRATE charge issuers between $350 and $2,060 for mandatory and voluntary corporate action event processing;

– SGX charges over $4000 per mandatory or voluntary event;

– VP Securities in Denmark charges a basic corporate action fee of approximately $2900;

– DTCC's corporate action fees are categorized by transaction type and its issuers are charged for late notification of voluntary events as well as for "consent only" events.

PUBLIC INTEREST

CDS submits that the proposed fees for Issuer Services, as developed and described in this Notice, are not contrary to the public interest.

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 or the Autorité des marchés financiers' Bulletin to:

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Copies should also be provided to the Autorité des marchés financiers, the British Columbia Securities Commission and the Ontario Securities Commission by forwarding a copy to each of the following individuals:

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Appendix A: Proposed Issuer Services Fees

Current Fee Description	Proposed Fee Description	Existing fee	Proposed Fee	Change Description
ISIN Issuance – Debt NHA	ISIN Issuance – CDS	$140	$160	Standard base price per ISIN or issuer code, consolidated into a single proposed fee for each of the items.
ISIN Issuance – Debt Medium Term Note (MTN)		$25		
ISIN Issuance – Package		$230		
ISIN Issuance – Strip Bond		$105		
ISIN Issuance – Standard & Poor's	ISIN Issuance – Standard & Poor's	$325	$268	Standard base price plus S&P pass-through
No description	ISIN issuance – Serial Bond Items	*No Fee*	$35	Charge for each additional ISIN
No description	Security eligibility administration	*No Fee*	$475	Charge per eligibility request
No description	Certificated BEO Global	$550	$125	Charge per eligibility request and number of certificates
No description	Eligibility Admin-48 hour late fee	*No Fee*	$2,000	Charge per request received less than 48 but more than 24 hours before the closing date
No description	Eligibility Admin-24 hour late fee	*No Fee*	$5,000	Charge per request received less than 24 before the closing date
No description	Eligibility Admin-closing date late fee	*No Fee*	$10,000	Charge per request received on the closing date
No description	Event management-MM interest and maturity	*No Fee*	$10	Charge per event
No description	Event management-NHA Interest	*No Fee*	$10	Charge per event
No description	Event management-NHA Maturity	*No Fee*	$20	Charge per event
No description	Event management-Interest	*No Fee*	$100	Charge per event
No description	Event management-Maturity	*No Fee*	$150	Charge per event
No description	Event management-Dividends	*No Fee*	$100	Charge per event
No description	Event management-Mandatory no option	*No Fee*	$250	Charge per event
No description	Event management-With choice	*No Fee*	$250	Charge per event
No description	Event management-ETF	*No Fee*	$250	Charge per event (e.g., Systematic Withdrawal Plans (SWP), Switches, and Pre-Authorized Cash Contribution plans (PACC))
No description	Event management-Paying agent	*No Fee*	$50	Charge per event where CDS manages payment release
No description	Event management-Depositary agent	*No Fee*	$100	Charge per event where CDS manages the event as the depositary agent

NOTE: All fees are in Canadian Dollars