



Finance

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August 12, 2016

CDS Clearing and Depository Services Inc.
Attn: Stephen Nagy, Managing Director, SIES
85 Richmond Street West
Toronto, Ontario M5H 2C9

re: Issuer Services Program
Proposed Amendments to CDS Fee Schedule

Dear Mr. Nagy:

The Department of Finance, Treasury Division, at the Province of Manitoba (“the Province”) has strived to build and maintain a productive relationship with The Canadian Depository for Securities Ltd. (CDS). We appreciate the opportunity to provide CDS and its regulators, the Ontario Securities Commission (OSC), the Autorité des marchés financiers (AMF) and the British Columbia Securities Commission (BCSC) with our comments on the CDS’s proposed amendments to their fee schedule, which were filed on July 14, 2016.

CDS is requesting regulatory approval for the proposed Issuer Services Program fees pursuant to:

- Section 7.8 of Schedule B of the OSC Recognition Order,
- Article 26.6 of the Recognition Decision of the AMF, and
- Section 9 of the BCSC Recognition Order.

The Province does not believe the fee increases proposed and filed by CDS on July 14th, 2016 should be approved as submitted.

The Province utilizes CDS as a securities depository for its money market and long-term debt issuance programs. This benefits the CDS participants who purchase and trade the Province’s debt securities. CDS’s Proposed Amendments do not appear to provide additional value to issuers, nor do they appear to reduce risk. The increase in fees, however, will be substantial and difficult to quantify, as it is unclear how the fees will be applied.

The Province, as is the case with all issuers and transfer agents, does not have representation on CDS’s Board of Directors and must rely on regulatory authorities to protect the public interest. CDS’s dominant

market position in the securities depository and the clearing and settlement system could adversely impact capital formation in Canada if monopolistic pricing practices are permitted.

The proposed fee increases will enhance CDS's revenue and increase administration burdens for issuer's utilizing CDS's services but provide no apparent benefit for their customers. CDS has proposed that they are implementing the new fee structure, in part, to "continuously improve services to issuers who continue to create new and innovative securities." The Province is concerned that the public sector may be subsidizing the maintenance and modernization of CDS' technology infrastructure, to the benefit of CDS's other non-sovereign clients, in contravention of CDS' Recognition Order.

Broad concerns the Province has regarding the Proposed Amendments include:

1. CDS intends to charge fees to issuers for every event or transaction including issuing a security, making interest payments or handling a maturity. CDS refers to these fees as "entitlement and corporate action events management fees".
2. The proposed CDS charge of \$150 per interest payment and maturity payment, inclusive of paying agent fee, is substantially higher than the \$6 to \$15 per domestic wire payment and the \$25 to \$50 per international wire payment the Province pays on substantially all non-CDS wire payments. With automated trade matching and settlements increasingly being utilized in the trade and payment process we do not see the justification for the fee increases being proposed.
3. The proposed fees are not aligned with fees charged by comparatively similar global depositories.
4. CDS has not satisfactorily provided government issuers with an explanation as to how the public sector will benefit from these new system enhancements.
5. CDS states "The proposed E&CA fees are intended to ensure that CDS is able to fulfill its mandate of offering multi-asset-class services, is able to maintain and modernize its technology infrastructure, and is able to continuously improve services to issuers who continue to create new and innovative securities." This heightens concern that the Province may be enabling CDS, contrary to its mandate, to provide services to one stakeholder group at the expense of another. Using statistics provided by CDS, only 42 percent of Canadian issuers whose securities were deposited at CDS paid an entitlement or ran a corporate action event ("E&CA") in 2015 and 5 percent of issuers accounted for 80% of the E&CA events. Rather than placate concerns that the fees are unlikely to adversely impact the Province this raises concerns that an inordinate amount of revenue will be generated by government issuers of debt as all government issuers will be impacted by regular E&CA fees multiple times every year.
6. CDS does not clearly outline what events constitute "Mandatory – No Option" and "Mandatory – With Choice" for their proposed new fees. These events should be clearly defined for the benefit of Issuers and Regulators.

Specific to the Proposed Amendments to the Issuance Services the Province has objections to the proposed late fee structure and eligibility requirements.

1. Standard new issue settlement cycles are currently T+3. CDS's current process time frame for eligibility requests is not compatible with T+3 settlement and the proposed late fee structure.

The Province does not object to the concept of late fees to incentivize compliance with industry standards but CDS must improve its processes and timelines to parallel market realities so that compliance by issuers is possible without being subject to late fees. It is unclear how CDS expects issuers to comply to its timeline in the current T+3 environment and how CDS will address this concern for the impending T+2 conversion in late 2017.

In a T+3 scenario:

- An ISIN/Cusip is requested by the issuer after a new issue is priced in the market. CDS has 24 hours to process the ISIN/Cusip request and notify the requestor.
 - CDS's user/client cannot request eligibility until after they have received the ISIN/Cusip details. So if the ISIN/Cusips are released after noon on T+1 then the \$2,000 late fine applies through no fault of the issuer. Even if CDS were to notify the user that the ISIN/Cusip is available to be retrieved from their system during the morning of T+1, the user still requires some processing time to retrieve the details and enter the eligibility request, which may or may not get into their system by the noon cut off, to avoid the fine.
 - Alternatively if the ISIN/Cusip request is processed late in the afternoon of T+1, CDS appears to have the sole discretion to deem this a late ISIN/Cusip request. This would permit CDS to have until the end of day the following business day (T+2) to process and issue the ISIN/Cusip request. Users then cannot request eligibility until T+2 which automatically translates to a \$5,000 late fine. If the eligibility request is processed after midnight on T+2 (i.e. on settlement day) then the \$10,000 fine is applied.
2. CDS has not made clear whether they have the right to unilaterally deny eligibility. If CDS presumes to have this power it would undermine the integrity of our domestic financial markets, particularly the government bond market, where investor participation is contingent upon eligibility for trading.

CDS has not contacted the Province regarding a Sovereign Rider, the Province is aware that CDS has contacted other issuers on this matter and it appears that CDS is contemplating providing themselves with the sole discretion to change the status of any security currently existing in its system from eligible to being ineligible. This is unacceptable as:

- CDS does not list the conditions which would warrant this status change.
- There needs to be a documented process and escalation procedure between an issuer and CDS before a status change can occur.

Specific to the Proposed Amendments to the Entitlements & Corporate Action Events Management the Province has objections to:

1. The potential that the wording of the comment on page 3/11, "Government debt securities deposited with CDS prior to the implementation of the proposed E&CA Services Fees will not be subject to the proposed fees for the life of those securities; that is, until their maturity" could be misinterpreted to permit the imposition of E&CA Service Fees in some

instances. An additional statement should be added and clearly state that all securities for which the up-front payment was exercised are grandfathered to maturity.

2. As no government issuer should be precluded from choosing to issue debt in its most cost-effective structure the statement on page 3/11 should be reworded from “In respect of Municipal serial bonds, CDS proposes to waive the agency fees associated with the interest payments for serial bonds” to “In respect of all government debt issuance, CDS proposes to waive the agency fees associated with all government debt issuance.”
3. CDS should define and provide a transparent scenario grid of the fees and additional charges they refer to on page 11/11 in their statement “Upfront Payment with 20% Discount Effective Nov 1/16 – All fixed term securities, including Government debt, have the option for up-front payment of fees and the fees are discounted at a rate of 20 percent from the total cost of the fees over the life of the fixed term security. Changes to the security prior to maturity may result in additional charges.” The additional charges are undefined and there is no reference as to what “changes” would incur the additional fees.

Should you have any questions or concerns regarding these comments please do not hesitate to contact us by phone or email.

Sincerely,

Original signed by Scott Wiebe

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