



**TD Bank Group**

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Wayne S. M. Ralph  
Chief Operating Officer  
CDS Clearing and Depository Services Inc.  
100 Adelaide Street West  
Toronto, Ontario

**RE: Notice and Request for Comments - Proposed Amendments to Eliminate Fee Rebate Model  
and to Eliminate Network Connectivity Fees**

Dear Mr. Ralph:

Thank you for the opportunity to comment on CDS Clearing and Depository Services Inc. Request for Comment entitled "Proposed Significant Change to Eliminate CDS Fee Rebates and Proposed Amendments to Eliminate Network Connectivity Fees."

By way of background, The Toronto-Dominion Bank is a clearing member of CDS.

We consider the stability of our industry's core infrastructure including clearing and settlement systems as of paramount importance to Canada's capital markets and reputation globally. As such, we read with keen interest the details of CDS's proposal to modernize its core technology backbone (known as Project Atlas-Mercury "PTM") and agree that the time is now to complete this project. However, we strongly object to the suggestion that members of CDS be responsible for paying for this system modernization. The TMX owns CDS. Therefore, TMX should be responsible for capital expenditures required to keep its core technology current.

**Background**

In 2012, the TMX purchased CDS from its owners, the Canadian banks and trust companies, as part of the Maple Group Acquisition Corp's purchase of TMX Group, Alpha Trading Systems and CDS. Members of CDS supported this transaction in the belief that vertical integration of clearing and settlement within TMX would yield synergy benefits through streamlining of operations. In addition, the integration of CDS in the TMX family of companies would yield capital and margin relief when stock and bond positions in CDS were offset by positions held at the Canadian Derivatives Clearing Corp (CDCC), another wholly-owned subsidiary of TMX.

While there were clear benefits to this vertical integration, in order to ensure that the TMX did not unfairly and un-necessarily increase fees for CDS, Canadian regulators included several conditions in the approval for the transaction in order to protect the public interest. These conditions included revised

lower fees, board composition of CDS that limited the number of representatives of the parent TMX to a minority position and a revenue sharing agreement that any increases in CDS revenues would be shared with industry participants on a 50/50 basis.

Over the next 7 years, the TMX operated CDS as a wholly-owned subsidiary with its own independent Board and worked to make CDS more efficient. This efficiency exercise included cost cutting and headcount reductions. In the past couple years, the CDS Board began to discuss a replacement for its principal processing system known as CDSX and came to realize the cost of this modernization would be material. The project was expected to cost \$120 million for a new system with an estimated useful life of up to 15 years.

After looking over its options, CDS has proposed to cover the cost of the project through the elimination of the profit -sharing arrangement put in place in 2012 which currently yields CDS members approximately \$10 million per year in rebates. With the cost of this project at \$120 million, this number is close to the present value of \$10 million per year for 15 years using a 3% discount rate. In other words, CDS is asking its members to fund the entire cost of the project.

**We strongly object to CDS membership paying for the CDSX system modernization and cite the following reasons as core to our position:**

- 1) The TMX owns and operates CDS as part of a publicly traded and for-profit company. Therefore, the cost of the CDSX system upgrade should be paid for by the TMX.
- 2) CDS suggests that the cost to the members of the elimination of rebates will be offset by as much as 30% due to the elimination of port fees and network connectivity fees. However, in terms of the network connectivity, CDS is simply pushing out the responsibility of network connections to its Membership. Therefore, these costs will now be direct to the Members rather than charged back by CDS. CDS members will also bear the cost of upgrading their internal systems to integrate with the new CDS infrastructure. These costs will be material given the proposed upgrades.
- 3) Lastly, comparisons of cost structures with other clearing corps are not apples to apples. For instance, the integration of CDS into a for-profit entity occurred at a time when Members were able to control costs, whereas other exchanges with monopoly businesses with vertical integration of clearing from the outset can extract higher rents for these services. In addition, the reference to CDS as having the second lowest clearing and settlement costs for equities is a bit misleading, as scale of trades over a fixed cost denominator will always make per trade costs look low.

In closing, we thank the regulators overseeing CDS for the opportunity to comment on this important industry initiative. We hope that a decision is made to put this project back to the parent company TMX and its Board to find an alternative funding vehicle for its infrastructure upgrade.

We would be happy to answer any additional questions should they arise.

Respectfully,

A handwritten signature in black ink, appearing to read 'T. Wiggan' with a long horizontal stroke at the end.

Tim Wiggan

Executive Managing Director and Head of Global Equities and Commodities  
TD Securities

The Toronto-Dominion Bank

Cc.

M<sup>e</sup> Philippe Lebel

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