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[Chief Financial Officer of each member institution]

**REQUIRED AMENDMENTS TO THE CANADA DEPOSIT INSURANCE CORPORATION
(CDIC) DIFFERENTIAL PREMIUMS BY-LAW**

Dear

As a result of recent changes to regulatory filings, CDIC must amend its *Differential Premiums By-law* (By-law). The proposed amendments are not substantive in nature. They reflect changes made to regulatory forms and in particular the move from the Capital Adequacy Reports (CAR) to the Basel Capital Adequacy Report (BCAR). The attached draft amending by-law and the draft Regulatory Impact Analysis Statement provide detail about the required changes.

In keeping with CDIC's consultative approach in addressing any changes to its by-laws, we are writing to each CDIC member institution as the changes will have an impact on your future Differential Premiums filings. We would appreciate your comments by October 10, 2008. It is anticipated that pre-publication in the Canada Gazette of the proposed changes will take place before the end of October 2008 and will provide for a further 30-day comment period.

At this time, CDIC has insufficient data to determine whether changes to the quantitative criteria of the By-law are required as a result of the adoption of Basel II capital adequacy measures. A review, with consultation, will take place over the next few years as more data becomes available.

We look forward to receiving your comments.

Yours truly,

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BY-LAW AMENDING THE CANADA DEPOSIT INSURANCE CORPORATION
DIFFERENTIAL PREMIUMS BY-LAW

AMENDMENTS

1. The definitions “Guidelines for Banks” and “Guidelines for Trust and Loan Companies” in subsection 1(1) of the *Canada Deposit Insurance Corporation Differential Premiums By-law*¹ are replaced by the following:

“*Guidelines for Banks*” means the Guidelines for Banks issued by the Superintendent under the *Bank Act*. (*Lignes directrices à l’intention des banques*)

“*Guidelines for Trust and Loan Companies*” means the Guidelines for Trust and Loan Companies issued by the Superintendent under the *Trust and Loan Companies Act*. (*Lignes directrices à l’intention des sociétés de fiducie et de prêt*)

2. (1) Subparagraph 15(1)(c)(ii) of the By-law is replaced by the following:

(ii) the *Basel II Capital Adequacy Reporting – Credit, Market and Operational Risk* return, set out on the website of the Office of the Superintendent of Financial Institutions, completed in accordance with the *Guidelines for Banks* or the *Guidelines for Trust and Loan Companies*, as applicable, as of the end of each of its two preceding fiscal years, that is, as of the end of the fiscal year ending in the year preceding the filing year and the end of the fiscal year ending in the second year preceding the filing year;

(2) Subparagraph 15(1)(d)(ii) of the By-law is replaced by the following:

(ii) the *Basel II Capital Adequacy Reporting – Credit, Market and Operational Risk* return, set out on the website of the Office of the Superintendent of Financial Institutions, completed in accordance with the *Guidelines for Banks* or the *Guidelines for Trust and Loan Companies*, as applicable, as of the end of each of its two preceding fiscal years, that is, as of the end of the fiscal year ending in the year preceding the filing year and the end of the fiscal year ending in the second year preceding the filing year;

3. Elements 1.1 to 1.3.2 of item 1 of the Reporting Form set out in Part 2 of Schedule 2 to the By-law are replaced by the following:

1.1 Assets to Capital Multiple	
Formula:	$\frac{\text{Net on- and off-balance sheet assets}}{\text{Total Adjusted Net Tier 1 and Adjusted Tier 2 Capital}}$
Complete the following:	$\frac{1.1.1 \text{ _____}}{1.1.2 \text{ _____}} = 1.1 \text{ _____}$

¹ SOR/99-120

Elements

Use the instructions below to arrive at the elements of the formula.

Refer to the *Basel II Capital Adequacy Reporting – Credit, Market and Operational Risk* (BCAR) form, completed in accordance with Guideline A-1 of the Guidelines as of the end of the fiscal year ending in the year preceding the filing year.

1.1.1 Net On- and Off-Balance Sheet Assets

Indicate the net on- and off-balance sheet assets as set out for item “N” of Schedule 1 – Ratio and Assets to Capital Multiple Calculations of the BCAR form.

1.1.2 Total Adjusted Net Tier 1 and Adjusted Tier 2 Capital

Indicate the total adjusted net tier 1 and adjusted tier 2 capital as set out for item “O” of Schedule 1 – Ratio and Assets to Capital Multiple Calculations of the BCAR form.

1.1.3 Multiple Authorized by the Regulator

For a federal member institution, indicate the assets to capital multiple authorized by the institution’s regulator.

For a provincial member institution, indicate the borrowing multiple or non risk-weighted assets multiple authorized by the institution’s regulator.

1.1.3 _____

1.2 Tier 1 Risk-Based Capital Ratio (%)**Formula:**

$$\frac{\text{Adjusted Net Tier 1 Capital}}{\text{Adjusted Risk-weighted Assets}} \times 100$$

Complete the following:

$$\frac{1.2.1 \text{ _____}}{1.2.2 \text{ _____}} \times 100 = 1.2 \text{ _____ \%}$$

Elements

Use the instructions below to arrive at the elements of the formula.

Refer to the *Basel II Capital Adequacy Reporting – Credit, Market and Operational Risk* (BCAR) form, completed in accordance with Guideline A-1 of the Guidelines as of the end of the fiscal year ending in the year preceding the filing year.

1.2.1 Adjusted Net Tier 1 Capital

Indicate the adjusted net tier 1 capital as set out for item “A” of Schedule 1 – Ratio and Assets to Capital Multiple Calculations of the BCAR form.

1.2.2 Adjusted Risk-Weighted Assets

Indicate the adjusted risk-weighted assets as set out for item “D” of Schedule 1 – Ratio and Assets to Capital Multiple Calculations of the BCAR form.

1.3 Total Risk-Based Capital Ratio (%)**Formula:**

$$\frac{\text{Total Capital}}{\text{Adjusted Risk-weighted Assets}} \times 100$$

Complete the following:

$$\frac{1.3.1 \text{ _____}}{1.3.2 \text{ _____}} \times 100 = 1.3 \text{ _____}\%$$

Elements

Use the instructions below to arrive at the elements of the formula.

Refer to the *Basel II Capital Adequacy Reporting – Credit, Market and Operational Risk* (BCAR) form, completed in accordance with Guideline A-1 of the Guidelines as of the end of the fiscal year ending in the year preceding the filing year.

1.3.1 Total Capital

Indicate the total capital as set out for item “B” of Schedule 1 – Ratio and Assets to Capital Multiple Calculations of the BCAR form.

1.3.2 Adjusted Risk-Weighted Assets

The adjusted risk-weighted assets as determined for element 1.2.2.

4. The portion of item 2 of the Reporting Form set out in Part 2 of Schedule 2 to the By-law before the heading “Score” is replaced by the following:

2. RETURN ON RISK-WEIGHTED ASSETS (%)
<p>Formula:</p> $\frac{\text{Net Income or Loss}}{\left(\begin{array}{l} \text{Adjusted risk - weighted assets as of} \\ \text{the end of the preceding fiscal year} \end{array} + \begin{array}{l} \text{Adjusted risk - weighted assets as of} \\ \text{the end of the fiscal year ending} \\ \text{in the second year preceding the} \\ \text{filing year} \end{array} \right) / 2} \times 100$
<p>Complete the following:</p> $\frac{2.1 \text{ _____}}{(2.2 \text{ _____} + 2.3 \text{ _____}) / 2} \times 100 = 2 \text{ _____}\%$
<p>Elements</p> <p>Use the instructions below to arrive at the elements of the formula.</p> <p>Refer to the following documents:</p> <p>(a) the <i>Consolidated Statement of Income, Retained Earnings and AOCI</i>, Reporting Manual, “Income Statement Tab”, completed in accordance with that Manual as of the fiscal year ending in the year preceding the filing year; and</p> <p>(b) the <i>Basel II Capital Adequacy Reporting – Credit, Market and Operational Risk</i> (BCAR) form, completed in accordance with Guideline A-1 of the Guidelines as of the end of the fiscal year ending in the year preceding the filing year.</p>

2.1 Net Income or Loss

The net income or loss (the latter to be reported as a negative number) is the amount set out in item 35 of the *Consolidated Statement of Income, Retained Earnings and AOCI*.

2.2 Adjusted Risk-Weighted Assets as of the End of the Preceding Fiscal Year

Indicate the adjusted risk-weighted assets as determined for element 1.2.2.

2.3 Adjusted Risk-Weighted Assets as of the End of the Fiscal Year Ending in the Second Year Preceding the Filing Year

Calculate the adjusted risk-weighted assets as of the end of the fiscal year ending in the second year preceding the filing year in the same manner as for element 2.2.

If the member institution did not report its adjusted risk-weighted assets using the BCAR form as of the end of the fiscal year ending in the second year preceding the filing year, it must report the same amount as for element 2.2.

If the member institution does not have a fiscal year ending in the second year preceding the filing year, it must report "zero", unless it is an amalgamated institution described below.

If the member institution is an amalgamated member institution formed by an amalgamation involving one or more member institutions and does not have a fiscal year ending in the second year preceding the filing year, it must report the same amount as for element 2.2.

5. The portion of item 5 of the Reporting Form set out in Part 2 of Schedule 2 to the By-law beginning with the heading "Elements" and ending before the heading "Score" is replaced by the following:

Elements

Use the instructions below to arrive at the elements of the formula.

Refer to the *Consolidated Statement of Income, Retained Earnings and AOCI*, Reporting Manual, "Income Statement" Tab, completed in accordance with that Manual for the fiscal year ending in the year preceding the filing year.

5.1 Total Non-Interest Expenses

Indicate the total non-interest expenses, as set out for item 27 of the *Consolidated Statement of Income, Retained Earnings and AOCI*, less any charges for impairment included under items 26(l)(i) and (ii) of that Statement.

5.2 Net Interest Income

Determine the net interest income by adding (a) and (b):

(a) Net interest income as set out for item 15 of the *Consolidated Statement of Income, Retained Earnings and AOCI* _____

(b) Taxable equivalent adjustment (if any) _____

Total (insert as element 5.2 of the formula) _____

5.3 Non-Interest Income

Determine the non-interest income by adding (a) and (b):

(a) Non-interest income as set out for item 22 of the *Consolidated Statement of Income, Retained Earnings and AOCI* _____

(b) Taxable equivalent adjustment (if any) _____

Total (insert as element 5.3 of the formula) _____

6. The portion of item 6 of the Reporting Form set out in Part 2 of Schedule 2 to the By-law beginning with the heading “Elements” and ending before the heading “6.1 Net Impaired On-Balance Sheet Assets” is replaced by the following:

Elements

Use the instructions below to arrive at the elements of the formula.

Refer to the following documents:

- (a) the *Return of Impaired Assets*, Reporting Manual, “Impaired Assets” Tab, completed in accordance with that Manual as of the end of the fiscal year ending in the year preceding the filing year;
- (b) the *Consolidated Monthly Balance Sheet*, Reporting Manual, “Balance Sheet” Tab, completed in accordance with that Manual as of the end of the fiscal year ending in the year preceding the filing year; and
- (c) the *Basel II Capital Adequacy Reporting – Credit, Market and Operational Risk* (BCAR) form, completed in accordance with Guideline A-1 of the Guidelines as of the end of the fiscal year ending in the year preceding the filing year.

7. Element 6.4 of item 6 of the Reporting Form set out in Part 2 of Schedule 2 to the By-law is replaced by the following:

6.4 Total Capital

Total capital as determined for element 1.3.1.

8. Tables 6A and 6B of item 6 of the Reporting Form set out in Part 2 of Schedule 2 to the By-law are replaced by the following:

Table 6A — Impaired Off-balance Sheet Assets

(Complete Table 6A as of the end of the fiscal year ending in the year preceding the filing year, referring to Schedule 39 – Off-balance Sheet Exposures Excluding Derivatives and Securitization Exposures and Schedule 40 – Derivative Contracts of the BCAR form, to Guideline A-1 of the Guidelines and to the *Instructions to OSFI Capital Adequacy Return* (Effective Q1 2008)

Impaired Instruments	Notional principal amount a	Credit conversion factor b	Credit equivalent (a × b)	Specific allowance for impairment
Direct credit substitutes – excluding credit derivatives		100%		
Transaction-related contingents		50%		
Short-term self-liquidating trade-related contingents		20%		

Sale & repurchase agreements		100%		
Forward asset purchases		100%		
Forward forward deposits		100%		
Partly paid shares and securities		100%		
NIFs & RUFs		50%		
Undrawn commitments – excluding securitization exposure		0%		
		20%		
		50%		
Impaired OTC Derivative Contracts				
Credit derivative contracts			*	
Interest rate contracts			*	
Foreign exchange & gold contracts			*	
Equity-linked contracts			*	
Precious metals (other than gold) contracts			*	
Other commodity contracts			*	
Total				
				Use these totals to calculate element 6.2

* Fill in the total amounts of the contracts under the heading “Credit equivalent amount” from Table 6B

Table 6B — Impaired OTC Derivative Contracts

(Complete Table 6B as of the end of the fiscal year ending in the year preceding the filing year, referring to Schedule 39 – Off-balance Sheet Exposures Excluding Derivatives and Securitization Exposures and Schedule 40 – Derivative Contracts of the BCAR form, to Guideline A-1 of the Guidelines and to the *Instructions to OSFI Capital Adequacy Return* (Effective Q1 2008))

Impaired OTC Derivative Contracts (in thousands of dollars)	Credit derivative contracts	Interest rate contracts	Foreign exchange & gold contracts	Equity-linked contracts	Precious metals (other than gold) contracts	Other commodity contracts
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Replacement cost (market value)

a. Contracts held for trading purposes

(all contracts before permissible netting)

Gross positive replacement cost						
Gross negative replacement cost						

b. Contracts held for other than trading

(all contracts before permissible netting)

Gross positive replacement cost						
Gross negative replacement cost						

c. Contracts subject to permissible netting

(included in a and b above)

Gross positive replacement cost						
Gross negative replacement cost						
Net positive replacement cost						

d. Total contracts – after permissible netting

Gross positive replacement cost						
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Potential credit exposure

Contracts not subject to permissible netting						
Contracts subject to permissible netting						

Credit equivalent amount

(after taking into account collateral and guarantees)

Contracts not subject to permissible netting						
Contracts subject to permissible netting						

Total Impaired OTC Derivative Contracts (carry forward to "Credit equivalent" column in Table 6A)						
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9. The portion of item 7 of the Reporting Form set out in Part 2 of Schedule 2 to the By-law beginning with the heading "Elements" and ending before the heading "Score" is replaced by the following:

<p>Elements</p> <p>Use the instructions below to arrive at the elements of the formula.</p> <p>Refer to Section I of the <i>Consolidated Monthly Balance Sheet</i>, Reporting Manual, "Balance Sheet" Tab, completed in accordance with that Manual as of the end of the fiscal year indicated under the heading "Assets for Years 1 to 4" below and</p> <p>(a) for fiscal years ending in 2007 or earlier, to the Capital Ratio Calculations (CAR 1), of the <i>Capital Adequacy Return</i>, Reporting Manual, "Capital Adequacy" Tab, completed in accordance with Guideline A of the Guidelines as of the end of the fiscal year indicated under the heading "Assets for Years 1 to 4" below; and</p> <p>(b) for fiscal years ending in 2008 and later, to the <i>Basel II Capital Adequacy Reporting – Credit, Market and Operational Risk</i> (BCAR) form, completed in accordance with Guideline A-1 of the Guidelines as of the end of the fiscal year indicated under the heading "Assets for Years 1 to 4" below.</p>
<p>Assets for Years 1 to 4</p> <p>For fiscal years ending in 2007 or earlier, the total of</p> <p>(a) the amount of net on- and off-balance sheet assets set out for item "W" of the CAR 1 form;</p> <p>(b) the total of the amounts set out in the column "Total" for items 3(a)(i)(A)(I) to (IX) (Securitized Assets – Off-Balance Sheet – Institution's own assets – Traditional securitizations) of Section I – Memo Items of the <i>Consolidated Monthly Balance Sheet</i>; and</p> <p>(c) if applicable, the value of assets, acquired by the member institution in the fiscal year ending in the year preceding the filing year as a result of a merger or acquisition referred to in the fourth paragraph under the heading "THREE-YEAR MOVING AVERAGE ASSET GROWTH (%)", for years 1, 2 and 3 below, where the value of those assets on the date of their acquisition exceeds 10% of the value of the consolidated assets of the member institution immediately before that merger or acquisition.</p> <p>For fiscal years ending in 2008 or later, the total of</p> <p>(a) the amount of net on- and off-balance sheet assets set out for item "N" of Schedule 1 – Ratio and Assets to Capital Multiple Calculations of the BCAR form;</p> <p>(b) the total of the amounts set out in the column "Total" for items 3(a)(i)(A)(I) to (IX) (Securitized Assets – Unrecognized – Institution's own assets – Traditional securitizations) of Section I – Memo Items of the <i>Consolidated Monthly Balance Sheet</i>; and</p> <p>(c) if applicable, the value of assets, acquired by the member institution in the fiscal year ending in the year preceding the filing year as a result of a merger or acquisition referred to in the fourth paragraph under the heading "THREE-YEAR MOVING AVERAGE ASSET GROWTH (%)", for years 1, 2 and 3 below, where the value of those assets on the date of their acquisition exceeds 10% of the value of the consolidated assets of the member institution immediately before that merger or acquisition.</p>

Year 1: as of the end of the fiscal year ending in the fourth year preceding the filing year	7.1 _____
Year 2: as of the end of the fiscal year ending in the third year preceding the filing year	7.2 _____
Year 3: as of the end of the fiscal year ending in the second year preceding the filing year	7.3 _____
Year 4: as of the end of the fiscal year ending in the first year preceding the filing year	7.4 _____

Indicate the number of fiscal years consisting of at least 12 months that the member institution has been operating as a member institution (if less than six).

A member institution must report assets for the last four fiscal years.

If a member institution has been operating as a member institution for less than four fiscal years of at least 12 months each and it is a member institution formed by an amalgamation involving only one member institution, it must report the assets of the amalgamating member institution for the four fiscal years or less preceding the amalgamation, as applicable.

If a member institution has been operating as a member institution for less than four fiscal years consisting of at least 12 months each, it must indicate "N/A" ("not applicable") for the elements corresponding to the fiscal years for which it was not operating as a member institution.

10. Element 9.2 of item 9 of the Reporting Form set out in Part 2 of Schedule 2 to the By-law is replaced by the following:

9.2 Total Capital

The total capital as determined for element 1.3.1, expressed in thousands of dollars.

11. The first instruction after the heading "Instructions" in item 9 of the Reporting Form set out in Part 2 of Schedule 2 to the By-law is replaced by the following:

Insert 10% of total capital as determined for element 1.3.1: 9.3 _____

COMING INTO FORCE

12. This By-law comes into force on the day on which it is registered.

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the By-law Amending the Canada Deposit Insurance Corporation Differential Premiums By-law)

Description:

The Board of Directors of the Canada Deposit Insurance Corporation (“CDIC”) made the *Differential Premiums By-law* (the “By-law”) on March 3, 1999, pursuant to subsection 21(2) and paragraph 11(2)(g) of the *Canada Deposit Insurance Corporation Act*. Subsection 21(2) of the *CDIC Act* authorizes the CDIC Board of Directors to make by-laws establishing a system of classifying member institutions into different categories, setting out the criteria or factors CDIC will consider in classifying members into categories, establishing the procedures CDIC will follow in classifying members, and fixing the amount of, or providing a manner of determining the amount of, the annual premium applicable to each category. The CDIC Board of Directors has amended the By-law on January 12 and December 6, 2000, July 26, 2001, March 7, 2002, March 3, 2004, February 9 and April 15, 2005, February 8, 2006 and December 6, 2006.

CDIC annually reviews this By-law to ensure that it remains up-to-date. As a result of the review, it was noted that technical amendments need to be made to Schedule 2 Part 2 Reporting Form (Reporting Form) to reflect not only a change to a regulatory form name but also to replace most references to the *Capital Adequacy Reports* (CAR) with equivalent references in the *Basel II Capital Adequacy Reporting – Credit, Market and Operational Risk* (BCAR). In addition to amendments to items 1, 2, 5, 6, 7 and 9 of the Reporting Form, Section 15 of the By-law must be amended to introduce the description of BCAR. The changes are reflected in the proposed *By-law Amending the Canada Deposit Insurance Corporation Differential Premiums By-law* (Amending By-law). The following table provides more detail about the amendments, which are technical in nature:

AMENDING BY-LAW SECTION(S)	EXPLANATION
	BY-LAW
2(1) and (2)	Repeals sub-paragraphs 15(1)(c)(ii) and 15(1)(d)(ii) of the By-law which describe the <i>Capital Adequacy Return – Market Risk</i> that will no longer be needed and replaces it with the description of the <i>Basel II Capital Adequacy Reporting – Credit, Market and Operational Risk</i> (BCAR form).

Schedule 2, Part 2, REPORTING FORM	
3	<p>Element 1 – Capital Adequacy Measures.</p> <ul style="list-style-type: none"> • References to the <i>Capital Adequacy Reports</i> (CAR forms) are replaced by the equivalent reference to the BCAR form. • Most references to "total capital" are replaced with "Total Adjusted Net Tier 1 and Adjusted Tier 2 Capital" as set out in the BCAR form. • "Tier 1 Capital" from the CAR form is replaced with "Adjusted Net Tier 1 Capital" from the BCAR form. • "Total Risk-Weighted Assets" from the CAR forms is replaced with "Adjusted Risk-Weighted Assets" from the BCAR form. • Total Capital for item 1.3.1 includes Tier 3 capital.
4	<p>Element 2 – Return on Risk-Weighted Assets (%).</p> <ul style="list-style-type: none"> • References to the CAR forms are replaced by the equivalent reference to the BCAR form. • "Total Risk-Weighted Assets" from the CAR form is replaced with "Adjusted Risk-Weighted Assets" from the BCAR form. • The title "<i>Consolidated Statement of Income</i>" is replaced by "<i>Consolidated Statement of Income, Retained Earnings and AOCI.</i>" • In item 2.3, the second paragraph has been added to accommodate the transition to the BCAR and to recognize that filing BCAR was not mandatory for all institutions during the 2007 fiscal year.
5	<p>Element 5 – Efficiency Ratio (%)</p> <ul style="list-style-type: none"> • The title "<i>Consolidated Statement of Income</i>" is replaced by "<i>Consolidated Statement of Income, Retained Earnings and AOCI.</i>"
6, 7 and 8	<p>Element 6 – Net Impaired Assets (Including Net Unrealized Losses on Securities) to Total Capital (%)</p> <ul style="list-style-type: none"> • References to the CAR forms are replaced by the equivalent reference to the BCAR form • References to the <i>Securities Report</i> are replaced with references to the <i>Consolidated Monthly Balance Sheet</i>. This change should have occurred previously as the data being used had changed forms a number of years ago. • Credit Derivative Contracts are added to Table 6A and 6B, as described in BCAR Schedules 39 and 40
9	<p>Element 7 – Three-Year Moving Average Asset Growth (%)</p> <ul style="list-style-type: none"> • References to the CAR forms are maintained for this element • Reference to the BCAR forms are added • Since this element uses four years of asset data, the measure has been

	<p>modified such that for years prior to 2007, the data is taken from the CAR forms whereas for the years 2007 and later, the data is taken from the BCAR forms. Equivalent asset data was identified from both forms for purposes of this element.</p> <ul style="list-style-type: none"> • The words “Off Balance Sheet” were changed to “Unrecognized” in the title of line item 3(a)(i)(A)(I) to (IX) dealing with securitized assets in the Section 1 – Memo Items of the Consolidated Monthly Balance Sheet.
10 and 11	<p>Element 9 – Aggregate Commercial Loan Concentration Ratio (%)</p> <ul style="list-style-type: none"> • Cross Reference changed within the reporting form to incorporate Total Capital as set out in item 1.3.1

Alternatives:

There are no available alternatives. The *CDIC Act* specifically provides that the criteria or factors to be taken into account in determining the category in which a member institution is classified and fixing or establishing the method of determining the amount of the annual premium applicable to each category may only be made by by-law.

Benefits and Costs:

No additional costs should be attributed directly to these changes.

Consultation:

As the changes are technical in nature, only consultation through notification to members and pre-publication in Part I of the Canada Gazette is necessary.

Compliance and Enforcement:

There are no compliance or enforcement issues.

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