



# Section 8 of the Amended Schedule to the CDIC Act

## Industry Best Practices

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## Preamble

- The **Section 8 Industry Best Practices** were developed by the Brokered Deposit Advisory Group (BDAG), in collaboration with CDIC, to help ensure industry alignment/compliance with the new CDIC requirements set out in section 8 of the amended schedule to the *CDIC Act*
- The Best Practices support industry's efforts to standardize the adherence of CDIC Member Institutions and Nominee Brokers to the *CDIC Act* and Bylaws. They make reference to CDIC guidance where Member institutions are introducing or amending agreements and/or arrangements respecting nominee broker deposits. They also provide industry standards and templates for notification requirements established under section 8 that CDIC member institutions must provide to Nominee Brokers and CDIC
- It is recognized that the sample templates may be adjusted slightly by industry participants to align with internal communications standards/formats
- The Best Practices address key legislative requirements set out by the Government of Canada. They should be implemented by stakeholders in conjunction with the *CDIC Act* and the *CDIC Co-Owned and Trust Deposit Disclosure By-law (COTDB)*

# 1. Introduction



## 1.1 Amendments to the *CDIC Act*

- Amendments to the schedule of the *CDIC Act* have been made to strengthen deposit insurance protection for brokered deposits held in nominee-name. These include new requirements that nominee brokers (NBs) and CDIC member institutions (MIs) must meet to ensure that the deposits held for clients on nominee brokers are protected
- The requirements are effective April 30, 2022 (the “in-force date”) and are not discretionary. Member institutions and nominee brokers are expected to comply with the requirements by the in-force date
- The new requirements apply to all nominee brokered deposits held at CDIC member Institutions -- including existing deposits held with the MI and net new deposits placed after the in-force date



## 1.1 Amendments to the *CDIC Act* (Cont'd)

- The amendments to the CDIC Act include new notification requirements for MIs, as well as provisions which must be included in agreements and arrangements between MIs and NBs
  - **Section 8(1)** requires MIs to include in agreements or arrangements respecting nominee broker deposits key new provisions set out in the section
  - **Section 8(2)** requires MIs to remind NBs with whom they do business on an annual basis to provide to CDIC an updated attestation, and to provide updated contact information (if required)
  - **Sections 8(3) and 8(4)** respectively require MIs to notify CDIC where they enter into, or cease to be a party to, an agreement with a NB respecting nominee broker deposits
  - **Section 8(5)** requires MIs to notify and provide specific information to a NB where the NB fails to provide required information in placing a deposit

## 1.2 The *Co-owned and Trust Deposit Disclosure By-law*

- The amendments to the schedule of the CDIC Act are further supported by the introduction of the Co-owned and Trust Deposit Disclosure By-law (COTDB)
- For the purpose of these Best Practices, the relevant sections in the COTDB are as follows:
  - **Sections 11 and 12** - set out the contents of the attestation and contact information, in addition to procedural requirements, that the NB must provide CDIC in accordance with the provisions required by section 8(1) of the schedule
  - **Section 13** - provides the timing and contents of the MI's notification to CDIC where the MI enters or ceases to be a party to an agreement or arrangement respecting nominee broker deposits
  - **Section 14** - provides required contents of the notification the MI must provide to the NB where the NB fails to provide certain information at the time a deposit is made



## 1.3 Purpose of Industry Best Practices

- The Best Practices were developed as a means of setting out the industry's approach for meeting the requirements in the CDIC Act and the By-laws by providing standard wording and/or templates for use in agreements/arrangements, attestations, updates, notifications
- The goal of the Best Practices is to ensure a consistent approach among industry participants to:
  - Introduce, amend or update arrangements and agreements between MIs and NBs with whom they do business;
  - Providing NBs annual, and transactional notifications; and
  - Notify CDIC that the MI has entered or ceased to be a party to an agreement or arrangement respecting Nominee Broker deposits
- The Best Practices form the basis for MIs and NBs to implement system, procedural & key document changes that enable alignment with the new CDIC requirements



## 2. Industry Expectations and Standardized Templates related to Section 8 Requirements



## 2.1 Section 8(1)

- Section 8(1) sets out specific provisions to be incorporated into the agreements/arrangements between MIs and the NB for whom they hold nominee brokered deposits. The provisions must require the NB to:
  - Provide CDIC information in accordance with section 7(1)(b) of the schedule
  - Make initial and updated attestations to CDIC
  - Provide and update contact information to the Member Institution
- CDIC has developed a guidance document that provides information to assist MIs with amendments to their agreements or arrangements with NBs

**CDIC’s Section 8(1) Guidance is available on the CDIC website at the following link:**  
**[“Legislation and By-laws”](#)**

- To align with the CDIC guidance, BDAG developed the following check list for MIs and NBs which may be used to assist in meeting section 8(1) requirements
- It is advised that MIs and NBs regularly review the section 8(1) checklist in advance of the in-force date to ensure compliance

## 2.1.1 Section 8(1) Checklist

For MIs	For Nominee Brokers
<ul style="list-style-type: none"> <li>Review all current agreements and arrangements held with Nominee Brokers to determine how the agreements/arrangements are held in advance of the April 30, 2022</li> </ul>	<ul style="list-style-type: none"> <li>Review all current agreements and arrangements held with MIs to determine how the agreements/arrangements are held in advance of the April 30, 2022</li> </ul>
<ul style="list-style-type: none"> <li>Take steps to formalize in writing all agreements or arrangements respecting nominee broker deposits held with Nominee Brokers</li> </ul>	<ul style="list-style-type: none"> <li>Review the provisions required by the amended schedule to the CDIC Act and will ensure they are able of meeting the requirements of the provisions as of the April 30, 2022</li> </ul>
<ul style="list-style-type: none"> <li>Ensure that all agreements and arrangements respecting nominee broker deposits incorporate the provisions required by section 8(1) of the schedule such that the provisions take effect as of the April 30, 2022</li> </ul>	<ul style="list-style-type: none"> <li>Take steps to ensure all agreements and arrangements respecting nominee broker deposits held with CDIC Member Institutions include the required provisions in advance of, and enforceable on, April 30, 2022</li> </ul>
<ul style="list-style-type: none"> <li>Be able to regularly demonstrate compliance with the requirements, in particular the inclusion of the required provisions in agreements and arrangements to CDIC</li> </ul>	<ul style="list-style-type: none"> <li>Implement a process which allows them to certify their compliance with the provisions in agreements and arrangements respecting nominee broker deposits</li> </ul>



## 2.2 Section 8(2)

- Section 8(2) requires MIs to notify NBs with whom they do business to provide to CDIC an updated attestation annually. MIs are to set out the requirements of the attestation in their notification and are to direct the NB to CDIC's Nominee Broker Portal.
  - MIs may, as a part of the notification process, request that the NB review and update the information (contact or otherwise) on the records of the MI
- BDAG, in cooperation with CDIC, has developed a notice template that MIs would provide annually each April following the April 2022 in-force date

**BDAG's Section 8(2) template is available on the CDIC website at the following link:**

**["Industry Best Practices"](#)**



## Section 8(2) (cont'd)

- It is strongly recommended that MIs:
  - Adopt the templated notification in accordance with section 8(2) of the amended schedule to the CDIC Act;
  - Review and personalize the templated notification to ensure consistency across MI notifications;
  - Review CDIC Act requirements to ensure the notification process adheres to the requirements of the CDIC Act and By-laws;
  - Distribute the notice to each individual or senior officer of the NB for whom they have contact information in the required time period.
    - The notice should also be provided by any other means which may be required to ensure the notice is brought to the attention of the appropriate person or persons



## 2.3 Section 8(3) and 8(4)

- Sections 8(3) and (4) require MIs to notify CDIC where they enter, or cease to be a party to, an agreement respecting nominee broker deposits
  - MI's must notify CDIC no later than the 15<sup>th</sup> day after the day on which the MI entered or ceased to be a party to the agreement/arrangement
  - MI's must provide the NB's legal name, and the date on which the MI entered or ceased to be a party to an agreement or arrangement respecting brokered deposits
  - Where an MI is entering an agreement or arrangement the MI must attest that the agreement/arrangement includes the provisions required by section 8(1) of the amended schedule to the Act
- To facilitate the notification process, CDIC has developed a new form accessible to CDIC Member Institutions through the Regulatory Reporting System (RRS)
- The form will be available to MIs ahead of April 30, 2022.



## 2.4 Section 8(5)

- Section 8(5) requires MIs notify NB's as soon as possible where the NB fails to comply with section 7(1)(a) of the amended schedule to the CDIC Act. Section 7(1)(a) sets out what information an NB must provide to an MI upon placing a deposit with the MI. In notifying the NB of the failure to provide required information the MI must set out what information is missing or deficient.
- BDAG, in cooperation with CDIC, has developed a notice template that MIs would provide to NBs, as appropriate, following the April 2022 in-force date

**BDAG's Section 8(5) template is available on the CDIC website at the following link:**

**["Industry Best Practices"](#)**



## 2.4 Section 8(5) (cont'd)

- It is strongly recommended that MIs:
  - Adopt the templated notification to align with section 8(5) of the amended schedule to the CDIC Act;
  - Provide the notice electronically, and in any other manner appropriate to the individuals, or officers of the NB responsible for providing the required information
  - Provide the relevant notice to any and all persons at “trade entry” (i.e. upon submission of the deposit), upon identifying all instances of non-compliance with section 7(1)(a) of the amended schedule to the CDIC Act.
  - Where a NB delays in the provision of required information, the MI will notify the NB that the failure to provide required information may affect CDIC Deposit Insurance protection





## 2.5 Industry Expectations

- The standardized industry approach set out in the Best Practices should be adopted by industry participants to assist them in meeting the requirements under the *CDIC Act* and the *CDIC Co-owned and Trust Deposit By-law as of April 30, 2022*
- All industry participants should adopt these best practices to ensure a consistent approach to incorporating CDIC requirements in agreements and/or arrangements between MIs and NBs; and to various notifications required under the *CDIC Act* and *CDIC Co-Owned and Trust Deposit Disclosure By-law (COTDB)*



## 2.6 Alternate Approaches to 8(2) and 8(5) Notifications

- Certain participants may consider using alternate approaches or wording to adhere to the section 8(2) and 8(5) notification requirements set out in section 8 of the amended schedule to the *CDIC Act*
- While not prohibited, industry templated documents should be viewed as a guide regarding information expectations by NBs, MIs and CDIC
- Failure by a CDIC member to adhere to the best practices may increase the risk of CDIC non-compliance. Failure to ensure agreements/arrangements and notifications align with section 8 of the Act and the *Co-owned and Trust Deposit Disclosure* will result in non-compliance

**CDIC has provided guidance concerning required provisions per section 8(1). CDIC will also be providing a form to MIs through RRS for the purpose of meeting section 8(3) and 8(4) requirements. No alternate approach in adhering to these provisions is available.**