

## **DEPOSIT INSURANCE INFORMATION BY-LAW**

### **What may, must and must not be said about who is a member of CDIC and what deposits CDIC insures**

On December 6, 2006 the CDIC Board of Directors significantly amended the *Canada Deposit Insurance Corporation Deposit Insurance Information By-law* (By-law). With one exception,<sup>1</sup> the amendments come into effect on publication in Part II of the Canada Gazette – December 27, 2006. The attached unofficial office consolidation of the By-law incorporates the changes (see Appendix I). Virtually every section of the By-law was amended.

The amendments eliminate both the necessity to maintain and display a deposit register and to use the clearance process, while providing greater opportunity for members to provide depositors with information about deposit insurance. Additional requirements, as well as opportunities, for negative indications of insurability (negative stamping) have been included as has a requirement to display on web sites the CDIC membership sign (decal) and information brochure. Finally, members are required to annually deliver to CDIC a list of deposit products.

This Bulletin responds to both frequently asked and likely questions and provides practical suggestions to assist members in applying the provisions of the By-law but in no way supersedes it. The Bulletin does, however, supersede and replace earlier bulletins or guides relating to the By-law. Information contained in earlier communications that continues to be relevant has been included in this Bulletin.

### **Interpretation**

#### Section 1

The first section contains a number of definitions used throughout the by-law. The most significant of these are the definitions of a “place of business” and “a point of

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<sup>1</sup> New Section 7.1 re disclosure requirements on web sites comes into effect four months later (see Section 12 of the Amending By-law).

service” since they are used to describe the locations where certain items must or may be displayed.

**Q: “place of business”:** Does someone from the bank actually have to be physically present for the location to be considered a “place of business”? If there is someone present, does that automatically mean that the member is doing business at that location?

A: To be considered a “place of business” a representative of the bank must be on site to assist the person to make a deposit. The mere presence of an individual representing the institution would not in and of itself result in the conclusion of it being a place of business. The location must also meet the two other criteria – the member is carrying on business in that location and the person can make a deposit. In other words, the member is carrying on deposit-taking business at that location. Branches meet the definition, but unmanned information kiosks or ATM locations would not.

**Q: “point of service”:** Would a kiosk in a mall displaying various print materials be considered a point of service?

A: It may or may not be, depending on what is available at the site. It would be a point of service if a person could fill out a form that would start the process to open an account or to purchase a term deposit. It would not be if what is available is information about accounts or term deposit offerings.

**Q: Is a Web site a “point of service”?**

A: In its definition of a point of service, CDIC specifically referred to a physical location. This was done intentionally to exclude a web site.

## General

Sections 2, 3 and 3.1

The governing principle underlying the entire By-law remains in place—no one is to make any false, misleading or deceptive statements about what is an insured deposit or who is a member institution.<sup>2</sup> Furthermore, any representations by member institutions must comply with Sections 3.1 to 9.2 of the By-law.

Member institutions are permitted to make limited representations, orally or in writing, about CDIC, their status as a member and insurable deposit products. When serving customers, members can now volunteer information about CDIC coverage<sup>3</sup> provided it limit the discussion to topics contained in the CDIC information brochure<sup>4</sup>. The limitations on the use of statements related to membership status or the use of the CDIC membership sign are addressed later in this Bulletin.

<sup>2</sup> Section 2.

<sup>3</sup> Previously, members could only respond to customers questions.

<sup>4</sup> Section 3.1.

**Q: Can I now say, in my advertising, that the term deposit we are offering is insured?**

A: No. The statement that a deposit is insured can be misleading and deceptive. What can be said is that it is eligible for insurance. If, for example, the depositor has more than \$100,000 in term deposits at the member institution, the excess is not insured.

**Q: Can a bank teller offer information about deposit insurance coverage without being asked?**

A: Yes. As a result of the amendments to the by-law, members can now make unsolicited statements about deposit insurance coverage provided the subject matter is referred to in the CDIC information brochure.

**Q: Can deposit product information refer to coverage?**

A: In materials to be handed out to customers such as a term sheet, members must be cautious to reference product eligibility for coverage and not in fact whether it is insured. Since there are limits to coverage which are dictated by the aggregate amount of deposits held by the customer at that institution, a statement that a deposit is insured could be misleading.

**Q: Since the CDIC information brochure contains a depiction of the CDIC sign, can members put the membership decal on their letterhead or on account statements sent to customers?**

A: Use of the membership sign in advertising is not permitted, including printed materials such as letterhead or statements of account. The By-law is quite specific as to when and where the membership sign is to be used.<sup>5</sup>

## **Membership Representation**

Sections 4 and 5

### Membership Status

CDIC members have long been restricted to the use of one statement to indicate membership in CDIC: "Member of Canada Deposit Insurance Corporation" without variation. This statement could only be made immediately following the full legal name of the member institution. Further, the statement could be made only in advertising dealing exclusively with deposits eligible for deposit insurance, such as term deposits or savings accounts, or in advertising dealing with no product at all.

The By-law now permits a number of different statements and includes the use of the acronym CDIC. The statement need only be in substantially the same words as the suggested statements. This flexibility should be useful depending on the context.

The proximity of the membership statement to the full name of the member institution differs depending on the content of the advertisement. For example, if the advertisement deals exclusively with a member institution and an insurable deposit product, the statement may appear anywhere in the ad. If the advertisement deals

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<sup>5</sup> Sections 5 and 7.1.

with the member institution and a non-member, the statement must appear immediately following or in close proximity to the name of the member institution.

The By-law now permits the membership status statement in advertising dealing with uninsurable as well as insurable products provided a negative stamp appears beside the uninsurable products.

**Q: What is an "advertisement"?**

A: CDIC has specifically not defined this term. In the circumstances, the usual dictionary meaning of the term would be employed.<sup>6</sup> Most definitions include informing or attracting the attention of the public or making something known by a published announcement. CDIC is of the view that letterhead or account statements fall into the category of advertisement. When applied to Web sites, each distinct scrollable segment (i.e. web page) would be considered a separate advertisement.

**Q: Could I say "Member of CDIC" in an advertisement that has the name of the member and references to investing in our mutual funds and GICs?**

A: This would be permitted provided there is included beside the reference to the mutual funds a statement saying that CDIC does not insure mutual funds.<sup>7</sup>

**Q: If the full name of the member institution is not in the advertisement, but rather a unique identifier is used, can I say "member of CDIC".**

A: No. Unfortunately, since most identifiers are used to identify a group of companies not all of which are member institutions, CDIC must continue to insist that the name of the member institution appears before the membership status statement is used.

### Membership Sign (decal)

A member must prominently display the membership sign at each entrance to its places of business such that they are clearly visible during business hours. CDIC will supply the signs as needed. Members may, if they choose, display the sign at any of their points of service. In a location that is a place of business for more than one member institution, the sign will include the name of all members.

If a member shares a place of business or point of service with a non-member institution, the By-law stipulates that the location or manner in which the sign is displayed must not give the impression that the non-member is a member institution.

When a member vacates premises, the signage must be removed.

<sup>6</sup> One definition included in the Oxford Dictionary: To give public notice of, to make publicly known, or call attention to, by a published announcement.

<sup>7</sup> Section 9.1(1) stipulates the language acceptable as a negative indication of insurability in this circumstance.

***Q: If CDIC changes something on the sign, must members replace the ones currently on display?***

A: In most circumstances, no replacement is necessary provided both the old and new versions contain the minimum information required by the By-law. For example, the new sign provided by CDIC reflects its new logo. Members are not required to remove the old sign. However, CDIC will no longer supply the old versions now that the new version is available. Whereas if for example the CDIC telephone number changed (and this is one of the required pieces of information), the signs would need to change. CDIC would provide members with a sufficient transition period in which to change the signs.

***Q: Is it alright to place the decal on the entrance door facing the street?***

A: Provided the decal is prominently displayed and clearly visible during regular business hours, the positioning is at the discretion of the member institution. However, care must be taken that the decal is visible when the door is open. For example, the decal should not be located on a pocket door that is pushed into the wall during business hours.

***Q: We are a virtual bank and have no branch network – only a call centre. We do not serve customers in person. Do we have to display the decal?***

A: If a customer makes his/her way to the door of the call centre and you would not turn the customer away but would assist that customer to either open an account or make a deposit, the decal should be displayed at that entrance.

***Q: Is the CDIC logo the same as the CDIC sign?***

A: No. The logo is the symbol and words appearing at the top of the first page of this Bulletin. The CDIC sign is the stylized Canadian flag with the name of the member institution replacing the maple leaf symbol, and information about CDIC printed on the red stripes.

## **Representations Concerning Deposits and Deposit Insurance<sup>8</sup>**

Sections 6 to 9.2

### CDIC Information Brochure

The information brochure as provided by CDIC must be displayed not only at each place of business but also at any point of service of the member. CDIC will provide the brochures to the members on request, in hard copy or electronic format. From time to time, CDIC updates the brochure. Members are not required to replace the version on display unless that version no longer meets the requirements of the By-law. In such a case, CDIC will allow an appropriate transition period. In most cases, updates do not affect the required information and therefore replacement is not necessary to be in compliance with the By-law.

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<sup>8</sup> Deposit Register / Clearance Process: There is no longer a requirement to display and deliver a Deposit Register to customers nor is it required to confirm eligibility of deposit products through the clearance process.

The brochure will be considered prominently displayed if it is as prominent as any of the member's own marketing materials of similar size and shape, and visible from the common area of the place of business or point of service.

***Q: Do I have to display the brochure titled *Protecting Your Deposits*? What about the one titled *CDIC Membership*?***

**A:** The brochure titled *Protecting Your Deposits* is the current version of the CDIC information brochure and it is a requirement that it be displayed. There is no requirement to display the CDIC Membership brochure although many institutions have chosen to display both of these together. The membership brochure acts as a CDIC confirmation of the institution's membership status.

### Web Sites

By May 1, 2007, members must display information about deposit insurance on their web sites.<sup>9</sup> The minimum information consists of the membership sign and the CDIC information brochure. The location options for the display of the information depends on whether the site is solely that of one or more member institutions or is shared by members and non-members. The information need only be posted once per web site.

If the site is that of a member institution, either on the home page or on the web page describing insurable deposit products, the member has the option of posting the membership sign and brochure or posting a statement that links to another page where the sign and brochure are displayed. The statement could be: "For CDIC coverage information, click here" or whatever statement works best in the context of the page.

If the site is shared by member and non-member institution(s), the option of posting the sign or deposit insurance information on the home page is no longer available. The membership sign and brochure are to be posted to the web page that contains information about insurable deposit products or post a statement that links to another page where the sign and brochure are displayed.

CDIC has available for members the membership sign and information brochure in electronic form. The sign must be posted retaining the proportions provided, although its overall size can be increased or decreased provided the information on the sign remains legible. If more than one member institution's name appears on the sign, care must be taken that the name is legible. Any tampering with the content of the sign is prohibited.

In the interests of assisting CDIC to disseminate accurate information about deposit insurance, CDIC would ask that when a reference to CDIC membership is included on a member's Web site, "Canada Deposit Insurance Corporation" or "CDIC" be highlighted as a hyperlink to CDIC's Web site (<http://www.cdic.ca>).

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<sup>9</sup> Section 7.1.

***Q: What if all of the Web site pages contain an index that references mutual funds? Can I still post the membership sign or make the membership status statement?***

**A:** Yes, if the reference to uninsurable products is clearly a link to another area of the Web site. CDIC will work with member institutions at their request to ensure that the location of the CDIC information does not give a false impression of insurability to uninsured products.

### Deposit Product List / Clearance

Annually each member is required to deliver to CDIC a list of its deposit products eligible for deposit insurance (deposit product list).<sup>10</sup> The deposit product list is to be attached to the annually filed Return of Insured Deposits (RID). An authorized officer of the member institution will be required to certify that each deposit product generating an amount included in the total amount of insured deposits has been included on the deposit product list.

In order to assist member institutions to confirm whether a particular product should be included on the list as eligible for deposit insurance, CDIC will maintain its clearance system. At any time, a member may request from CDIC confirmation of eligibility and, in turn, be confident that the product should be included on the deposit product list. Further, if a member is intending on making a membership status statement in advertising dealing with an eligible deposit product, CDIC confirmation of eligibility for deposit insurance may be helpful. Attached is a short guide to follow when requesting confirmation of eligibility (Appendix II).

***Q: Would the old Deposit Register qualify as a deposit product list? Or could a series of product information sheets be used?***

**A:** Provided it is updated annually, the Deposit Register would meet the new requirement. CDIC is not concerned about the format in which the list is provided and is willing to accept whatever format is most convenient for the member institution. If a member chooses to forward a series of product information sheets, some form of summary list should be included.

***Q: Is there a specific "as at" date for the deposit product list?***

**A:** April 30<sup>th</sup> in each year. While the By-law does not explicitly state the date, the Return of Insured Deposits includes all insured deposit liabilities of the institution on April 30<sup>th</sup>. In the circumstances, for the authorized officer of the member to stipulate that the list includes each type of deposit in respect of which the Corporation collects a premium, the timing must correspond.

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<sup>10</sup> Section 8.



**Q: Does CDIC need a list of every deposit held by the member?**

A: No. The list is of product types or product names including types of accounts and types of deposit products. Member institutions may use an updated version of the previously required Deposit Register.

**Q: What will CDIC do with the deposit product list?**

A: CDIC will use the list to assist it in confirming that all insurable deposits have been included in the Return of Insured Deposits and to ensure that CDIC's information about the deposit products of its members is updated. This in turn will assist our inquiries officers to respond more readily to depositors' questions about the insurability of specific products. After reviewing the deposit product list, CDIC will confirm with member institutions the insurability of products not previously confirmed through the clearance process.

### Negative Indications of Insurability (Negative Stamping)

The basic rules relating to negative stamping are unchanged. Any deposit product that is not eligible for deposit insurance must bear a statement confirming it is not insured by CDIC. For example, foreign currency deposits must bear a negative stamp.

There are a number of phrases that qualify as a negative stamp. The original statement "The deposit evidenced by this instrument does not constitute a deposit that is insured under the Canada Deposit Insurance Corporation Act" may be used as can a much simpler phrase: "Not insured by CDIC" or "Not insured by the Canada Deposit Insurance Corporation". Furthermore, provided the statement used is substantially the same as one of the suggested statements, it would comply with the By-law.<sup>11</sup>

A situation where the instrument references both insurable and uninsured deposit products,<sup>12</sup> members have been given a choice of statements, at least one of which must be made at the location indicated. For example, in a statement of account that acts as the evidence of a deposit where some of the deposits are in foreign currency, one of the choices of a negative indication of insurability must be included on the statement in such a way that it is understood not all of the deposits reflected on the statement are eligible for deposit insurance.

The foregoing two paragraphs refer to the requirement to negatively stamp the document (instrument) that is provided as evidence of the deposit, whether hard copy or electronic. Such instruments could include term deposit certificates, guaranteed investment certificates, deposit receipts, savings account bank books, bank statements, etc. In addition, the By-law now includes the permission to negatively stamp any other document referencing uninsured deposits, for example, in a brochure about a foreign currency account.<sup>13</sup>

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<sup>11</sup> Subsection 9(1).

<sup>12</sup> Subsection 9(2).

<sup>13</sup> Section 9.1.



Member institutions must include in their sales communications about money market mutual funds a statement that the mutual fund securities are not covered by CDIC.<sup>14</sup> The members must also ensure that any such communications by their subsidiaries or affiliates also include the prescribed statement, or one in substantially the same language.

**Q: Don't members or their subsidiaries already have to include a negative stamp in sales communications about money market mutual funds?**

**A:** As a result of securities regulations adopted in most provinces,<sup>15</sup> these types of sales communications already include this statement. Since CDIC's research has confirmed confusion among depositors about the insurability of their mutual funds, CDIC needed to ensure that such requirement applied across the country.

## **GENERAL MATTERS**

### Clearance Process

CDIC will continue to maintain the clearance system on an optional basis. It may be useful for members who would like to confirm product eligibility in advance of advertising, or to ensure that the list provided annually does in fact reflect all eligible products of the member institution. Furthermore, CDIC welcomes the opportunity to comment on any wording of materials intended for the public that speak to the insurability of a product or the membership status of an institution. This can go a long way toward avoiding misleading statements, albeit unintentional. Appendix II is a very short guide to assist members in seeking clearance.

Following is some contact information that may be useful.

<b>Information Brochure</b>	To obtain copies, contact CDIC Communications and Public Affairs at 1-613-996-2087 or <a href="mailto:info@cdic.ca">info@cdic.ca</a> .
<b>Membership Sign</b>	
<b>Membership Brochure</b>	All are available in electronic form as well as hard copy
<b>Educational Materials</b>	To obtain source materials to assist in the development of training programs for employees with respect to CDIC deposit insurance, contact: Manager, Communications and Public Affairs at (613) 995-6548 or <a href="mailto:sroux@cdic.ca">sroux@cdic.ca</a>
<b>Clearance</b>	Direct inquiries about the eligibility of products for deposit insurance or about the choice of language in materials mentioning CDIC to: Insurance Department (Claire Dumais at 613-947-0256 or <a href="mailto:cdumais@cdic.ca">cdumais@cdic.ca</a> )
<b>General Inquiries</b>	CDIC's toll-free number continues in operation at: 1-800-461-2342(CDIC) or email <a href="mailto:info@cdic.ca">info@cdic.ca</a>

<sup>14</sup> Section 9.2.

<sup>15</sup> Canadian Securities Administrators National Instrument No. 81-102.



**CANADA DEPOSIT INSURANCE CORPORATION**  
**DEPOSIT INSURANCE INFORMATION BY-LAW**  
**UNOFFICIAL CONSOLIDATION**  
**December 2006**

INTERPRETATION

**1.** The definitions in this section apply in this By-law.

“Act” means the *Canada Deposit Insurance Corporation Act*. (*Loi*)

“CDIC” means the Canada Deposit Insurance Corporation. (*SADC*)

“place of business” means a location in Canada where a member institution carries on business and at which a person may make a deposit with the assistance of a representative of a member institution. (*lieu d'affaires*)

“point of service” means a location in Canada where a member institution carries on business and at which a person may, in person or by electronic means, commence a transaction to open an account with the member institution or to make a deposit with the member institution for a fixed term, but does not include a place of business. (*point de service*)

“Return of Insured Deposits” means the form of return of insured deposits established by the Corporation in accordance with subsection 22(1) of the Act. (*Déclaration des dépôts assurés*)

GENERAL

**2.** No person shall make any false, misleading or deceptive representation with respect to

(a) what constitutes, or does not constitute, a deposit;

(b) what constitutes, or does not constitute, a deposit that is insured by the Corporation;  
or

(c) who is a member institution.

**3.** (1) When a member institution makes representations with respect to any of the matters referred to in paragraphs 2(a) to (c), the representations shall be made in accordance with sections 3.1 to 9.2.

(2) A member institution shall not make a representation with respect to any of the matters referred to in paragraphs 2(a) to (c) if its deposit insurance has been terminated or cancelled.

**3.1** A member institution may make representations with respect to anything contained in the brochure referred to in section 6.

## MEMBERSHIP REPRESENTATION

**4.** (1) A member institution may, in its advertising, make any of the following representations, or representations in substantially the same words as any of the following representations, with respect to its status as a member institution:

(a) "Member of Canada Deposit Insurance Corporation" (or "A Canada Deposit Insurance Corporation member");

(b) "Member of CDIC" (or "A CDIC member");

(c) "(name of the member institution) is a member of the Canada Deposit Insurance Corporation"; or

(d) "(name of the member institution) is a member of CDIC".

(2) The representations referred to in subsection (1) may appear

(a) anywhere in advertising that deals exclusively with

(i) the member institution, without mentioning any deposit or other financial product,  
or

(ii) deposits insured by the Corporation; and

(b) immediately following, or in close proximity to, the name of the member institution in advertising that

(i) deals exclusively with deposits insured by the Corporation and refers to both the member institution and a person other than a member institution, using their name or a brand name or other identifier, or

(ii) does not deal exclusively with deposits insured by the Corporation, if the statement set out in subsection 9.1(1) appears in close proximity to the representations respecting the deposits that are not insured by the Corporation.

**5.** (1) A member institution shall display a membership sign provided by the Corporation prominently at each entrance to each of its places of business in such a manner that the sign is clearly visible during business hours.

(2) The membership sign, representing a stylized Canadian flag, must contain, at a minimum, the name of the Corporation, contact information for the Corporation and the name of the member institution or member institutions doing business at the location where the sign is to be displayed.

(2.1) A member institution may display a membership sign at any of its points of service.

(3) Where a member institution shares a place of business with a person other than a member institution, the member institution shall ensure that its representations and the location or manner in which its membership sign is displayed do not give the impression that the other person is also a member institution.

(4) When a member institution vacates a place of business or point of service, it shall remove all membership signs from the vacated premises.

#### REPRESENTATIONS CONCERNING DEPOSITS AND DEPOSIT INSURANCE

**6.** The Corporation shall supply to each member institution a copy of a brochure that includes the following:

- (a) general information about the Corporation;
  - (b) contact information for the Corporation;
  - (c) the Corporation's logo or other identifiers;
  - (d) information as to what constitutes a deposit that is insured by the Corporation;
  - (e) information as to what constitutes a deposit that is not insured by the Corporation;
  - (f) the maximum amount of deposit insurance coverage provided by the Corporation;
- and
- (g) information as to what a depositor needs to know when the Corporation is obliged to make an insurance payment.

**7.** A member institution shall display the brochure prominently at each of its places of business and points of service and shall make copies of the brochure available to depositors or any other persons.

**7.1** (1) Subject to subsection (3), a member institution that has its own web site or shares a web site with another member institutions shall display deposit insurance information, consisting of at least the membership sign referred to in subsection 5(2) and the brochure referred to in section 6, provided by the Corporation in electronic form in both instances, on that web site, in at least one location

- (a) on the home page;
- (b) where there are representations respecting deposits that are insured by the Corporation; or

- (c) on another web page, to which a hyperlink is provided at a location referred to in paragraph (a) or (b) that describes that page as the location where information about deposit insurance is available.

(2) Subject to subsection (3), a member institution that shares a web site with a person other than a member institution shall display deposit insurance information, consisting of at least the membership sign referred to in subsection 5(2) and the brochure referred to in section 6, provided by the Corporation in electronic form in both instances, on that web site, in at least one location

(a) where there are representations respecting deposits that are insured by the Corporation; or

(b) on another web page, to which a hyperlink is provided at the location referred to in paragraph (a) that describes that page as the location where information about deposit insurance is available.

(3) When the membership sign is displayed by a member institution in accordance with subsection (1) or (2), changes may be made to its overall sizing for the purpose of the electronic display but only if the proportions of the sign, as provided by the Corporation, are maintained.

**8.** (1) A member institution shall prepare and maintain an up-to-date list of each type of instrument evidencing that the member institution has received or is holding money from or on behalf of a person

(a) that constitutes a deposit that is insured by the Corporation;

(b) that is or is to be set out in the member institution's Return of Insured Deposits; and

(c) in respect of which the Corporation collects a premium in accordance with section 21 of the Act.

(2) The list shall be

(a) in printed form; or

(b) entered or recorded by any system of mechanical or electronic data processing or any other information storage device that is capable of reproducing any required information in intelligible written form within a reasonable time.

(3) A member institution shall provide a copy of the list to the Corporation with its Return of Insured Deposits.

**9.** (1) A member institution shall not issue an instrument, evidencing that the member institution has received or is holding money that does not constitute a deposit that is insured by the Corporation and in respect of which the Corporation does not collect a premium in accordance with section 21 of the Act, to any person in writing or by electronic or other means, unless the instrument bears a warning statement on its face in substantially the same words as one of the following statements:

(a) "Not insured by CDIC";

(b) "Not insured by the Canada Deposit Insurance Corporation"; or

(c) "The deposit evidenced by this instrument does not constitute a deposit that is insured under the *Canada Deposit Insurance Corporation Act*."

(2) A member institution shall not issue an instrument, that, in addition to the facts referred to in subsection (1), also evidences that the member institution has received or is holding money that constitutes a deposit that is insured by the Corporation and in respect of which the Corporation collects a premium in accordance with section 21 of the Act, to any person in writing or by electronic or other means, unless the instrument bears a warning statement on its face in substantially the same words as one of the following statements in the location specified, if any:

(a) "Only deposits held in Canadian currency, having a term of five years or less and payable in Canada are insurable under the *Canada Deposit Insurance Corporation Act*.";

(b) "The following deposits evidenced by this instrument do not constitute deposits that are insured under the *Canada Deposit Insurance Corporation Act*:" before the list of deposit products that are not insured by the Corporation;

(c) "Not insured by CDIC" beside the reference to each deposit that is not insured by the Corporation;

(d) "Not insured by the Canada Deposit Insurance Corporation" beside the reference to each deposit that is not insured by the Corporation; or

(e) "Not insured by CDIC" in a footnote the reference mark for which is located beside the reference to each deposit that is not insured by the Corporation.

**9.1** (1) A member institution may affix to any document relating to a deposit that is not insured by the Corporation a statement in substantially the same words as the following:

"Only deposits held in Canadian currency, having a term of five years or less and payable in Canada are insurable under the *Canada Deposit Insurance Corporation Act*."

(2) A member institution may affix any of the statements set out in paragraph 9(1)(a) to (c) to any document evidencing that the member institution has received or is holding money that does not constitute a deposit that is insured by the Corporation.

**9.2** (1) The following definitions apply in this section.

"advertisement" means a sales communication in written form that is published in or designed for use on a public medium, other than radio or television. (*texte publicitaire*)

"sales communications" means a communication, relating to a mutual fund, that is made to any person in order to induce them to purchase securities of the mutual fund and that is not contained in any of the following documents of the mutual fund:



- (a) a preliminary prospectus or a pro forma prospectus;
- (b) a simplified prospectus or a simplified pro forma prospectus;
- (c) an annual information form or a preliminary or pro forma annual information form;
- (d) any financial statements, including the notes to those financial statements and the auditor's report on those financial statements;
- (e) a trade confirmation; or
- (f) a statement of account;
- (g) an annual or interim management report of fun performance. (*communication à des fins de vente*)

"subsidiary" has the same meaning as in section 2 of the *Bank Act*. (*filiale*)

(2) A member institution shall include in its advertisements about money market mutual funds, or have included in the advertisements of any of its subsidiaries or affiliates about money market mutual funds, a warning statement in substantially the same words as the following:

"Mutual fund securities are not covered by the Canada Deposit Insurance Corporation."

#### COMING INTO FORCE

**10.** (1) Subject to subsection (2), this By-law comes into force on the day on which it is registered.

(2) Section 7.1 comes into force four months after the day referred to in subsection (1).

## **CLEARANCE PROCESS for Deposit Product List Representations about coverage**

### **Introduction**

Each member must deliver annually to CDIC a list of its deposit products that are eligible for deposit insurance.<sup>16</sup> To assist members in determining whether a product meets the CDIC Act definition of an eligible deposit, CDIC maintains a clearance process. Member institutions may submit information about a product and CDIC will confirm to the member institution its view as to whether or not, based on the information provided, the product is eligible for CDIC deposit insurance coverage and should be included on the list.

As well, members may use the process to confirm the view of CDIC as to whether statements about deposit insurance comply with the Deposit Insurance Information By-law (By-law), i.e. are not false, misleading or deceptive.

### **Deposit Product List**

The list is to include each type of instrument evidencing that the member holds money constituting a deposit insured by CDIC, the deposit liabilities of which are captured on the institution's Return of Insured Deposits.<sup>17</sup> Examples of the more common types of instrument, i.e. products / accounts, to be included would be: savings account; chequing account; current account; term deposit; guaranteed investment certificate (GIC); index-linked term deposit or GIC. These could be listed generically or by their marketing name.

In addition to the more common types, there are a number of products/accounts that are insurable deposits by virtue of the CDIC Act. These include bank drafts, mortgage tax accounts, travelers cheques where the ultimate issuer is the member, money orders and official cheques, prepaid letters of credit, certified cheques, some suspense accounts, unclaimed cheques, and non-bank debentures. Some products marketed as annuities also may meet the definition of a deposit.

The list is to be provided to CDIC with the member institution's Return of Insured Deposits due annually on July 15<sup>th</sup>. The list is to reflect products/accounts available as of April 30<sup>th</sup>. Notwithstanding that a product/account is no longer available, if

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<sup>16</sup> Section 8 of Deposit Insurance Information By-law

<sup>17</sup> Section 8

the member continues to have outstanding deposit liabilities in reference to the product, its name should appear on the list.

The Deposit Register maintained by members prior to 2007, updated, would meet the exigencies of the By-law.

### **Clearance Process**

In order for CDIC to be in a position to respond in a timely manner, members are asked to follow the clearance process when submitting a product/account, or statement, for clearance. In the usual course, provided the product/account is not an innovative type never before reviewed by CDIC, a response can be expected within two to four business days.<sup>18</sup>

*Submission—for entries to the deposit product list:*

In order for CDIC to come to a conclusion, it must review the terms and conditions upon which the moneys are held and repaid.

**Step 1 – complete the attached Checklist (Appendix A) that describes the product/account. If uncertain as to an answer, please leave it blank.**

**Step 2 - Attach to the Checklist sample documentation which sets out the terms and conditions under which the monies are held and repaid. Examples of such documentation would be: Terms and Conditions, term deposit receipt, Term sheet, guaranteed investment certificate (GIC), passbook, application to open an account, statements of account, disclosure statements, advertising or marketing materials, business descriptions and working papers describing a future product. It is not necessary to have everything available. What is provided should, however, include the terms and conditions under which the monies are held and repaid. If documentation has yet to be developed, set out the anticipated terms and conditions in a letter. CDIC may request additional information.**

Step 3 – include an updated deposit product list reflecting the product to be cleared.

Step 4 – forward to: Insurance Department, Canada Deposit Insurance Corporation, 50 O'Connor Street, 17th Floor, P.O. Box 2340, Station D, Ottawa ON K1P 5W5, Fax: 613-992-8219 or email: [schisholm@cdic.ca](mailto:schisholm@cdic.ca) or [cdumais@cdic.ca](mailto:cdumais@cdic.ca)

Option: For member institutions that have previously used the Industry Standard Definitions to clear savings, chequing and combined savings/chequing accounts or to clear basic term deposits/GICs, the process may continue to be used. In this

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<sup>18</sup> It is likely that in the weeks leading up to April 30<sup>th</sup> and to July 15<sup>th</sup> many members will be updating their deposit product lists and confirming insurability with CDIC. Response times may be longer depending on volume at these times.

circumstance, forward the Certification Letter together with the updated deposit product list that includes the products/accounts being cleared. Appendix B contains a sample Certification Letter as well as the two Industry Standard Definitions. This option is not available for index-linked term deposits or GICs. Please note that a product that does not meet the Industry Standard Definition may nonetheless be eligible for deposit insurance. Follow steps 1 through 4 above.

*Submission—for statements/representations about deposit insurance/coverage:*

Member institutions may request confirmation that the information it is making available about deposit insurance coverage does not mislead the customer. For example, if two member institutions amalgamate, certain rules respecting the limitations of coverage come into effect. Member institutions should be advising customers of the impact of the amalgamation on their deposit insurance coverage, but the rules can be complicated to explain. The member institution may submit the proposed depositor communication for clearance and CDIC will provide its views on the wording.

To take advantage of this clearance process, forward to CDIC at the address noted above a draft of the proposed wording explaining the context in which it will appear.

### **CDIC Conclusion**

In the normal course CDIC will provide its written conclusion, by fax or email, within two to four business days from the date all necessary information is received by CDIC. Upon notification by CDIC that a product is not eligible for deposit insurance, the product is to be endorsed with a negative indication of insurability under Section 9 of the By-law.

In the event of disagreement, CDIC will reconsider its conclusion if the member provides to CDIC further information and/or a legal analysis of its position. CDIC will review such analysis and provide its view within 2 weeks of receipt of such analysis.

### **CDIC Records**

Each product/account or statement submitted for clearance will be assigned a CDIC file number. Any product/account that was cleared from March 1996 to December 27, 2006 was assigned a CDIC file number and will be deemed cleared for purposes of the new process. They do not need to be resubmitted for clearance to appear on the deposit product list.

In the event there is a change to a product/account, such as a change of name or discontinuance (i.e. no longer any deposit liabilities associated with it), CDIC should be advised in order to update its records. Please refer to the assigned CDIC file number in referencing the product/account.

## **Definition of a Deposit**

Appendix C—Elements of a Deposit—summarizes the definition of a deposit<sup>19</sup> and outlines a deposit's component elements. It also notes certain practical applications of the definition explaining which products are/are not deposits by definition under the CDIC Act or otherwise. It should be noted that what constitutes a deposit under the CDIC Act may not necessarily correspond to a deposit under other statutes.

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<sup>19</sup> Schedule to CDIC Act

**APPENDIX A**

**CHECKLIST**

Name/Type of Product/Account: \_\_\_\_\_

	<b>Yes</b>	<b>No</b>
1. Money is received or held.	<input type="checkbox"/>	<input type="checkbox"/>
2. Money is received or held from or on behalf of a person.	<input type="checkbox"/>	<input type="checkbox"/>
3. In the usual course of the institution’s deposit-taking business.	<input type="checkbox"/>	<input type="checkbox"/>
4. Does the institution		
A) i) give or is it obliged to give the person’s account credit	<input type="checkbox"/>	<input type="checkbox"/>
OR		
ii) does the institution issue, or is obliged to issue, any one of the following in respect of which the institution is primarily liable:		
receipt	<input type="checkbox"/>	<input type="checkbox"/>
certificate	<input type="checkbox"/>	<input type="checkbox"/>
debenture (loan companies only)	<input type="checkbox"/>	<input type="checkbox"/>
transferable instrument	<input type="checkbox"/>	<input type="checkbox"/>
draft	<input type="checkbox"/>	<input type="checkbox"/>
certified cheque	<input type="checkbox"/>	<input type="checkbox"/>
money order	<input type="checkbox"/>	<input type="checkbox"/>
traveller’s cheque	<input type="checkbox"/>	<input type="checkbox"/>
prepaid letter of credit	<input type="checkbox"/>	<input type="checkbox"/>
other instrument	<input type="checkbox"/>	<input type="checkbox"/>
and		
B) Is the institution obligated to repay the moneys on a date not later than 5 years from date of deposit:		
i) on a fixed day	<input type="checkbox"/>	<input type="checkbox"/>
ii) on demand	<input type="checkbox"/>	<input type="checkbox"/>
iii) within a specified period of time following demand	<input type="checkbox"/>	<input type="checkbox"/>
5. Payable in a currency other than Canadian.	<input type="checkbox"/>	<input type="checkbox"/>
6. Payable outside Canada.	<input type="checkbox"/>	<input type="checkbox"/>
7. Is there any possibility that the principal could be varied by the terms of the contract.	<input type="checkbox"/>	<input type="checkbox"/>

**Note:** “Person” is defined as including an individual, an association of individuals, any legal person such as a business, a corporation or a government. “Payable in Canada” means that the funds are held in Canada. The place of residence of the depositor does not affect the deposit insurance that CDIC provides. Depositors living outside Canada with eligible deposits in a CDIC member institution in Canada receive the same protection.

If the answers to questions 1 to 3 are YES, the answer to question 4A is YES to either A(i) or one of A(ii), the answer to 4B is YES to one of B(i), (ii) or (iii), and the answers to questions 5 to and including 7 are NO, the initial conclusion will be that the product is a deposit.

**APPENDIX B  
CERTIFICATION LETTER AND INDUSTRY STANDARD DEFINITIONS**

**Certification Letter**

*(For use when industry standard definition used)*

Attached are the following:

- 1) Industry Standard Definition for [insert name of definition and CDIC reference number and name of product previously cleared using this definition];
- 2) List of deposit product(s)/account(s) being submitted for clearance under the definition;
- 3) Copy of deposit product list including the subject deposit product(s)/account(s).

We hereby certify that the product(s)/account(s) listed have been analyzed as to their component elements and that the terms and conditions of the product related to the definition of “deposit” under the CDIC Act conform to the definition attached, and that there is no aspect of the product that could exclude it from the parameters set out in the definition attached.

Yours truly,

**Industry Standard Definition 1  
Savings, Chequing and Combined Savings-Chequing Accounts**

Based on the terms and conditions commonly used by CDIC member institutions, following are the agreed elements of savings, chequing and combined savings-chequing accounts eligible for deposit insurance. Where banks/trusts vary in their terms under an element, parameters are provided.

<b>General</b>	<ul style="list-style-type: none"> <li>• Money is received or held, from or on behalf of a person, in the usual course of the institution’s deposit taking business.<sup>20</sup></li> <li>• Currency of payment: Canadian dollar only.</li> <li>• Product has no currency features.</li> <li>• Payable in Canada.</li> <li>• Site of deposit is in Canada.</li> <li>• Institution is obliged to give the depositor credit for money received.</li> </ul>
<b>Payment, Withdrawals</b>	<ul style="list-style-type: none"> <li>• The institution is obliged to repay moneys on demand, subject to a restriction on withdrawals of up to a specified period of time (of less than five years) as stated in individual contracts.</li> </ul>

<sup>20</sup> “Usual course of deposit taking business” can be a grey area. Questions should be referred to CDIC.



<b>Interest</b>	<ul style="list-style-type: none"> <li>• Interest may or may not be paid on the principal.</li> <li>• If interest is paid, the terms and conditions will indicate how it is calculated (i.e. daily) and paid (i.e. monthly).</li> <li>• Payment of interest is not contingent upon a future event, but may vary depending on the amount on deposit in the account.</li> </ul>
<b>Principal</b>	<ul style="list-style-type: none"> <li>• Balance is payable in full, excepting service or other charges/penalties.</li> </ul>
<b>Evidence of Deposit</b>	<ul style="list-style-type: none"> <li>• Issues or makes available for issue a receipt, statement or passbook.</li> </ul>

**Industry Standard Definition 2**  
**Basic Term Deposit/GICS**

Based on the common practices of CDIC member institutions, following are the agreed elements of term deposits and Guaranteed Investment Certificates (GICs) eligible for deposit insurance. Where banks/trusts vary in their terms under an element, parameters are provided. Products that do not fit this definition may nevertheless be eligible for deposit insurance.

<b>General</b>	<ul style="list-style-type: none"> <li>• Money is received or held, from or on behalf of a person, in the usual course of the institution’s deposit taking business.<sup>21</sup></li> <li>• Currency of payment: Canadian dollar only (product has no currency features).</li> <li>• Payable in Canada.</li> <li>• Site of the deposit is in Canada.</li> </ul>
<b>Instrument Issued</b>	Certificate, receipt or confirmation (referred to as Certificate throughout rest of table).
<b>Term</b>	Deposit is payable on a fixed day (maximum five years). Options to extend <sup>22</sup> term must not take the total term beyond the five year limit. If demand periods are built into the term (e.g. a GIC featuring two or more maturity options, with fixed demand periods) the term for CDIC insurance eligibility would be the total term, not the shorter interim periods.
<b>Payment - Interest</b>	The Certificate will indicate the rate of interest and how it is calculated and paid. Interest accrues and may be paid out to the depositor according to terms specified on the Certificate. The interest calculation cannot be linked to a future event. For further clarity: products with returns linked to stock, bond or other market indices are not covered within this definition.

<sup>21</sup> “Usual course of deposit taking business” can be a grey area. Questions should be referred to CDIC.

<sup>22</sup> For purposes of this definition, “extend” means to continue the deposit’s term as originally agreed; it is different from renewal. “Renew” means to reinvest the deposit at the prevailing rate after it has matured. A renewal results in a new term deposit, which is subject to the five-year limit to be eligible for insurance.

<b>Payment - Principal</b>	Principal is payable at the end of the term and will never be less than the original amount deposited, unless reduced because of service charges or penalties.
<b>Payment - Instructions</b>	Depositor must provide instructions for the payment of interest during the term and the repayment of the deposit at the end of the term; typically instructions must be provided before the end of the term.
<b>Renewal Procedure</b>	Procedures and instructions specified on the Certificate. Typically deposit may be renewed at the prevailing rate of interest, provided depositor has given instructions before the end of the term.
<b>Transfer</b>	If Certificate says "Non-transferable", then the deposit may not be sold or transferred to a third party. If Certificate says "Transferable", then the deposit may be sold or transferred to a third party, either privately or through a broker.

## APPENDIX C

### ELEMENTS OF DEPOSITS

**Deposit means the unpaid balance of the aggregate of moneys:**

- Received or held by the member
- From or on behalf of a person
- In the usual course of deposit taking business
- For which the institution
  - has given or is obliged to give credit to the person's account; or
  - has issued or is obliged to issue a receipt, certificate, debenture (not *Bank Act*), transferable instrument, draft, certified cheque, traveller's cheque, pre-paid letter of credit, money order, or other instrument in respect of which is primarily liable; and
  - is obliged to repay the moneys on a fixed day, on demand by that person or within a specified period of time following demand
- Including interest accrued or payable.

**The following are not insured deposits:**

- Obligation to repay is more than 5 years from date of deposit
- Payable in foreign currency
- Payable outside Canada
- Where Her Majesty is a preferred claimant

**The following forms of investment are examples of non-deposit items:**

- Mutual Funds
- Treasury Bills
- Debentures issued by Chartered Banks
- Bankers Acceptances
- Bearer Deposits