

CANADIAN PAYMENTS ASSOCIATION
ASSOCIATION CANADIENNE DES PAIEMENTS

RULE L2

**PROCEDURES PERTAINING
TO THE DEFAULT OF
AN INDIRECT CLEARER**

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Implemented

March 31, 1994

Amendments Pre-November 2003

November 27, 1995, January 22, 1996, April 7, 1997, April 9, 1998, July 18, 1998, December 7, 1998 and November 25, 2002.

Amendments Post-November 2003

1. Amendments to reflect consistency with the new CPA Payment Items and ACSS By-law, approved by the Board November 27, 2003, effective January 27, 2004.
2. Addition of Section 9 b) iii) approved by the Board December 1, 2004, effective February 3, 2005.
3. Consequential amendment to Section 9 b) ii) to remove reference to US Dollar EDI, resulting from the removal Rule K7, approved by the Board November 27, 2008, effective January 26, 2009.
4. Consequential amendment to Subsection 9(b) pursuant to Rule E4, regarding the treatment of PIN-less Point-of-Service Payment Items on Default. Approved by the Board March 26, 2009, effective May 25, 2009.
5. Amendment to replace references to “General Manager” with “President”, consequential to amendments to the *Canadian Payments Act* (Bill C-37) that came into effect on March 1, 2010.
6. Amendments to reflect the removal of certain default and un-winding procedures, consequential to amendments to By-law No. 3 – Payment Items and ACSS, which came into effect on August 17, 2012. Approved by the Board October 3, 2013, effective December 2, 2013.



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Introduction

1. This Rule outlines the procedures for implementing section 58 of By-law No.3 – Payment Items and ACSS in the event of the Default of an Indirect Clearer.

Scope

2. (a) These procedures shall be followed by each Member in the event of a Default of an Indirect Clearer.
(b) This Rule only applies to Default as defined in subsection 3(a) and does not include intervention by a regulator, liquidator and/or receiver.
(c) For greater certainty, Default of an Indirect Clearer will not automatically occur in the event that its Clearing Agent has Defaulted and the Indirect Clearer is not able to deposit funds at the Bank of Canada.

Definitions

3. In this Rule, unless the context otherwise requires:
 - a) “Default” means a situation where, after any advances have been made, a shortfall remains in the Settlement Account of an Indirect Clearer with its Clearing Agent that precludes Settlement;
 - b) “Official Contact” means the person designated by a Member to be its representative for the purpose of receiving notice pursuant to this Rule;
 - c) “Purge” and “Purging” mean the process of deleting AFT Transactions and EDI Payment Items that have been Exchanged with a Defaulting Direct Clearer for Clearing and Settlement subsequent to the ACSS Cycle for which Default has occurred and are residing in surviving Members’ warehouses; and
 - d) “Settlement Account” means the account by which is established and maintained by each Direct Clearer, at the Bank of Canada, or by each Indirect Clearer, with its Clearing Agent, for the purpose of Settlement.

Applicability of Rule in a multiple clearing agent situation

4. Where an Indirect Clearer has more than one Clearing Agent and has been declared in Default only by one Clearing Agent, this Rule applies only with respect to the Items processed by the Clearing Agent that declared the Indirect Clearer in Default.

Notice of Default

5. (a) Where a Default has occurred, the Clearing Agent of the Defaulting Indirect Clearer shall give notice of the Default to the President in accordance with subsection 5(b).
(b) For the purpose of subsection 5(a), notice of Default shall:
 - i) provide the date of Default;



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- ii) provide a statement that the Clearing Agent is no longer acting as the Clearing Agent for the Defaulting Indirect Clearer; and
- iii) be executed immediately after the Clearing Agent ascertains the Default of the Indirect Clearer.

Appendix I contains a pro forma sample of the notice to be given to the President.

- c) Where a Default has occurred, the Clearing Agent of the Defaulting Indirect Clearer shall provide the President with the name of the liquidator or trustee as soon as it is known, if a liquidator or trustee has been appointed.
- d) Where a Default has occurred, the Clearing Agent of the Defaulting Indirect Clearer shall give notice of the Default and its effective date to the relevant regulatory authority.

Notification to Members and Others

- 6. a) Upon being notified pursuant to section 5, the President shall, in accordance with subsection 6(b), and without liability to the President, the CPA or any of its employees, immediately give notice of the Default to:
 - i) the Official Contact of each Member;
 - ii) the CPA Board of Directors;
 - iii) the relevant regulatory authority(ies); and
 - iv) payment service networks as defined in Rules E1, E2 and E4.
- b) For the purpose of subsection 6(a), a reasonable effort shall be made to ensure notice of the Default is received by all Direct and Group Clearers.
- c) Notice shall be provided by telephone and electronic mail to all Members.

Notification of Liquidator

- 7. Where the President becomes aware of the appointment of a liquidator or trustee in respect of an Indirect Clearer, the President shall immediately:
 - a) give notice of such appointment to the Official Contact of each Direct Clearer; and
 - b) give notice to the liquidator or trustee of the requirements as set out in section 31 of the Act.

Responsibilities of Members

- 8. a) Upon receipt of the notice of Default, each Member shall:
 - i) Give notice to each of its Branches, internal departments and, where applicable, all Indirect Clearers for which it acts as Clearing Agent or entities belonging to the Group for which it acts as Group Clearer, to immediately stop accepting, for



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clearing purposes, all Items drawn on, payable by or payable to, the Defaulting Indirect Clearer; and

- ii) Immediately “block” each of its systems or procedures that Exchange payments with the Defaulting Indirect Clearer.

Treatment of Payment Items of a Defaulted Indirect Clearer

- 9. Where a Clearing Agent declares Default of an Indirect Clearer, that Clearing Agent shall be responsible and liable only for Settlement of those Payments Items for which it acts as Clearing Agent for the Indirect Clearer for the ACSS Cycle for which the Indirect Clearer was noted in Default.
- 10.
 - a) All Payment Items sent to the Clearing Agent of the Defaulted Indirect Clearer that are value dated for an ACSS Cycle subsequent to the day of Default shall be Purged.
 - b) Listings of all Items that have been Purged shall be forwarded to the liquidator or trustee.



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Sample Notice of Default Pursuant to Section 5 of CPA Rule L2

To President of the CPA:

Pursuant to section 5 of CPA Rule L2, _____ (*name of Clearing Agent*) is hereby notifying you of the Default of _____ (*name of Defaulting Indirect Clearer*) as of _____, (*date of Default*). Therefore, _____ (*name of Clearing Agent*) is forthwith ceasing to act as Clearing Agent for _____ (*name of Defaulting Indirect Clearer*).

authorized signatory

