



NOTICE TO MEMBERS

No. 2017 – 047

April 5, 2017

SELF-CERTIFICATION

AMENDMENTS TO THE RULES, OPERATIONS MANUAL AND RISK MANUAL OF CDCC

PROPOSED AMENDMENTS TO SECTIONS A-102, A-220 AND A-701 OF THE RULES OF THE CANADIAN DERIVATIVES CLEARING CORPORATION IN ORDER TO ESTABLISH A HIGHER STANDARD OF LEGAL CERTAINTY WITH RESPECT TO BANKRUPTCY REMOTENESS.

On November 2, 2016, the Board of Directors of the Canadian Derivatives Clearing Corporation (CDCC) approved amendments to the Rules of CDCC. CDCC wishes to inform the Clearing Members that these amendments have been self-certified pursuant to the self-certification process set forth in the *Derivatives Act* (C.Q.L.R., c I-14.01) and approved by the Ontario Securities Commission in accordance with the “Rule Change Requiring Approval in Ontario” process.

The purpose of the amendments is to properly establish a higher standard of legal Certainty with respect to Bankruptcy Remoteness.

You will find attached hereto the amendments set to come into force and to be incorporated into the version of the Rules, Operations Manual and Risk Manual of CDCC that will be made available on the CDCC website at www.cdcc.ca as of April 5, 2017.

If you have any questions or concerns regarding this notice, please contact CDCC’s Corporate Operations department or direct your e-mail inquiries to cdcc-ops@tmx.com.

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President and Chief Clearing Officer

Canadian Derivatives Clearing Corporation

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APPENDIX 1

(BLACKLINE)

SECTION A-102, A-220 AND A-701

PART A – GENERAL

RULE A-1 DEFINITIONS

Section A-102 Definitions

“Financial Asset” – has the meaning assigned to this term by the QSTA.

“Margin” – means any and all the deposits required or made pursuant to Rule A-7 Margin Requirements.

“Margin Deposit” – means, collectively,

- a) ~~a)~~ any and all Securities, Cash, Instruments, cheques, Underlying Interest, Underlying Interest Equivalent, Long Positions and Short Positions;
- b) ~~b)~~ any and all of the deposits required or made pursuant to Rule A-6 Clearing Fund Deposits, Rule A-7 Margin Requirements, and Rule B-4 Delivery and Payment with Respect to Options Exercised, Rule C-5 Delivery of Underlying Interest of Futures and Rule D-3 Physical Delivery of Underlying Interest on Over-the-Counter Instruments, including Margins, Base Deposits, Additional Deposits, Variable Deposits, Put Escrow Receipts, Call Underlying Interest Deposits, and Futures Underlying Interest Deposits, and any other form of deposit accepted from time to time are accepted by the Corporation; and
- c) ~~e)~~ any and all ~~securities pledged or assigned to~~ Financial Assets transferred to the Corporation through the facilities of a Central Securities Depository; ~~or held by any other type of Securities Intermediary;~~

deposited by or on behalf of ~~the~~ Clearing Member with the Corporation or another person (including a Central Securities Depository or any other type of Securities Intermediary, a financial institution or the Bank of Canada) for purpose of the performance of the obligations of the Clearing Member under the Rules.

“Securities Intermediary” – has the meaning assigned to this term by the QSTA.

“QSTA” means the Act respecting the transfer of securities and the establishment of security entitlements (Quebec)

SECTION A-220 GOVERNING LAW

The Rules shall be governed by and construed in accordance with the laws of the province of Quebec and the federal laws of Canada applicable therein. Each Clearing Member, by virtue of its membership in the Corporation, attorns to the jurisdiction of the courts of Quebec.

The term “pledge” (and any correlative term) in the Rules and any Application for Membership includes a security interest and hypothec and any provision whereby a pledge is or shall be granted includes the grant of a security interest and hypothec.

RULE A-7 MARGIN REQUIREMENTS

SECTION A-701 MARGIN MAINTENANCE AND PURPOSE

- 1) Prior to the Settlement Time on every Business Day, every Clearing Member shall be obligated to deposit Margin with the Corporation, as determined by the Corporation, in respect of
 - a) each Long Position,
 - b) each Short Position,
 - c) each Assigned Position,
 - d) each exercised Option position, and
 - e) each tendered Futures position.

in each account maintained by such Clearing Member with the Corporation at the opening of such Business Day, including each such position that arises out of a Transaction having a Settlement Time on such Business Day, but excluding Short Positions and Assigned Positions for which either the Underlying Interest or the Underlying Interest Equivalent as specified in Section A-708 has been deposited with the Corporation. When determining whether additional Margin is required from a Clearing Member, the Corporation shall take into account, subject to Subsection A-704(2), all Margin Deposits deposited by or on behalf of such Clearing Member with the Corporation (and not returned to such Clearing Member).

- 2) The Corporation shall apply the Non-Conforming Member’s Margin Deposit (including, without limitation, Margin and Clearing Fund), subject to Subsection A-701(3), to the discharge of:
 - a) the Non-Conforming Member’s obligation with respect to any Transaction accepted by the Corporation, whether such failure is caused or not by the Non-Conforming Member;
 - b) a failure or anticipated failure to make any payment to the Corporation required of a Non-Conforming Member, whether such failure is attributable to the Non-Conforming Member or not;
 - c) any loss or expense anticipated or suffered by the Corporation upon the liquidation of the Non-Conforming Member’s position;
 - d) any loss or expense anticipated or suffered by the Corporation pertaining to the Non-Conforming Member’s obligations in respect of exercised Options or tendered Futures or OTCI for which settlement has not yet been made or in connection with hedging transactions effected for the account of the Corporation pursuant to Rule A-4 in respect of the Non-Conforming Member’s positions in Options, Futures and OTCI;
 - e) any protective or hedging transaction effected for the account of the Corporation pursuant to Rule A-4 in respect of the Non-Conforming Clearing Member’s positions in Options and Futures;

- f) any protective or hedging transaction effected for the account of the Corporation pursuant to Rule A-4 in respect of the Non-Conforming Clearing Member's positions in any OTCI; or
- g) any other situation determined by the Board.
- 3) Each Clearing Member grants to ~~and in favour of~~ the Corporation a first ranking pledge ~~of, lien on and security interest and hypothec in, over~~ all property (including, without limitation, ~~property deposited as Margin Deposit (including, without limitation,~~ Margin and Clearing Fund) ~~deposited by the Clearing Member with the Corporation that constitutes Margin Deposit or other property~~ which may, from time to time be in the possession or control of the Corporation, or in the possession or control of a person acting on behalf of the Corporation, ~~to~~. This pledge shall secure the performance by the Clearing Member of all of its obligations to the Corporation and, to the extent such pledge relates to Clearing Fund deposits, it shall also secure the performance by another Clearing Member which is a Non-Conforming Member of its obligations to the Corporation, all subject to the provisions of Rule A-6 and the Default Manual, provided; however, that that, except for Clearing Fund deposits, Margin Deposits with respect to a Client Account shall only secure the performance by the Clearing Member of its obligations in respect of that Client Account, and Margin Deposits with respect to a Market Maker Account shall only secure the performance by the Clearing Member of its obligations in respect of that Market Maker Account. Notwithstanding the foregoing, if the Clearing Member does not identify its Margin Deposits with respect to each of its accounts, the Corporation shall use all Margin Deposits without distinction as securing all the obligations of the Clearing Member in respect of all its accounts. The Clearing Member shall execute and deliver ~~to the Corporation (or cause to be executed and delivered)~~ such other documents as the Corporation may from time to time request for the purpose of confirming or perfecting the pledge, ~~lien, security interest and hypothec provided granted~~ to the Corporation by the Clearing Member; provided that the failure by the Corporation to request or by the Clearing Member to execute and deliver ~~(or cause the execution and delivery of)~~ such documents shall not limit the effectiveness of the ~~foregoing sentence~~ pledge in favour of the Corporation.
- 4) Except as permitted under Subsection A-609(4) in respect of Clearing Fund deposits, and without limiting the right of the Corporation to invest the Margin Deposits in the form of cash under Subsections A-608(1) and A-709(1), the Corporation shall not grant a pledge, repledge, hypothecate, rehypothecate over or transfer any property deposited as Margin Deposit by a Clearing Member which has not been designated as a Non-Conforming Member by the Corporation as ~~Margin Deposit as~~ security for, or in connection with, the Corporation's own obligations to any person.
- 5) Without limiting the rights of the Corporation under Subsection A-701(2), the Corporation may at its sole discretion of the Corporation, grant a pledge over or transfer all property deposited with the Corporation as Margin Deposit (including, without limitation, Margin and Clearing Fund) by a Clearing Member which has been designated as a Non-Conforming Member ~~may be pledged, repledged, hypothecated, rehypothecated or transferred by the Corporation~~ as security for, or in connection with, the Corporation's own obligations to any person incurred in order to obtain liquidity or credit for the purpose of assisting the Corporation to honour its obligations on a timely basis further to the designation by the Corporation of such Clearing Member as being a Non-Conforming Member. In such circumstances, the Corporation shall grant a pledge over or transfer such Non-Conforming Member's Margin Deposits before ~~pledging doing so with respect to~~ the Clearing Fund deposits of other Clearing Members, in accordance with Subsection A-609(4). The Corporation shall be deemed to continue to hold all Margin Deposit deposited with the Corporation, regardless of whether the Corporation has exercised its rights under this Subsection 701(5).

~~6)~~

7) Any account or sub-account of a Clearing Member with the Corporation that reflects Financial Assets deposited with the Corporation by or on behalf of such Clearing Member for Margin purposes and to which such Financial Assets are credited, shall be considered a securities account for purposes of the QSTA or any similar securities transfer law of any other jurisdiction.

APPENDIX 2

(CLEAN)

SECTION A-102, A-220 AND A-701

PART A – GENERAL

RULE A-1 DEFINITIONS

Section A-102 Definitions

“Financial Asset” – has the meaning assigned to this term by the QSTA.

“Margin” – means any and all the deposits required or made pursuant to Rule A-7 Margin Requirements.

“Margin Deposit” means collectively,

- a) any and all Securities, Cash, Instruments, cheques, Underlying Interest, Underlying Interest Equivalent, Long Positions and Short Positions;
- b) any and all of the deposits required or made pursuant to Rule A-6 Clearing Fund Deposits, Rule A-7 Margin Requirements, and Rule B-4 Delivery and Payment with Respect to Options Exercised, Rule C-5 Delivery of Underlying Interest of Futures and Rule D-3 Physical Delivery of Underlying Interest on Over-the-Counter Instruments, including Margins, Base Deposits, Additional Deposits, Variable Deposits, Put Escrow Receipts, Call Underlying Interest Deposits, and Futures Underlying Interest Deposits, and any other form of deposit accepted from time to time are accepted by the Corporation; and
- c) any and all Financial Assets transferred to the Corporation through the facilities of a Central Securities Depository or held by any other type of Securities Intermediary;

deposited by or on behalf of a Clearing Member with the Corporation or another person (including a Central Securities Depository or any other type of Securities Intermediary, a financial institution or the Bank of Canada) for purpose of the performance of the obligations of the Clearing Member under the Rules.

“Securities Intermediary” – has the meaning assigned to this term by the QSTA.

“QSTA” means the *Act respecting the transfer of securities and the establishment of security entitlements* (Quebec)

SECTION A-220 GOVERNING LAW

The Rules shall be governed by and construed in accordance with the laws of the province of Quebec and the federal laws of Canada applicable therein. Each Clearing Member, by virtue of its membership in the Corporation, attorns to the jurisdiction of the courts of Quebec. The term “pledge” (and any correlative term) in the Rules and any Application for Membership includes a security interest and hypothec and any provision whereby a pledge is or shall be granted includes the grant of a security interest and hypothec.

RULE A-7 MARGIN REQUIREMENTS

SECTION A-701 MARGIN MAINTENANCE AND PURPOSE

- 1) Prior to the Settlement Time on every Business Day, every Clearing Member shall be obligated to deposit Margin with the Corporation, as determined by the Corporation, in respect of
 - a) each Long Position,
 - b) each Short Position,
 - c) each Assigned Position,
 - d) each exercised Option position, and
 - e) each tendered Futures position.

in each account maintained by such Clearing Member with the Corporation at the opening of such Business Day, including each such position that arises out of a Transaction having a Settlement Time on such Business Day, but excluding Short Positions and Assigned Positions for which either the Underlying Interest or the Underlying Interest Equivalent as specified in Section A-708 has been deposited with the Corporation. When determining whether additional Margin is required from a Clearing Member, the Corporation shall take into account, subject to Subsection A-704(2), all Margin Deposits deposited by or on behalf of such Clearing Member with the Corporation (and not returned to such Clearing Member).

- 2) The Corporation shall apply the Non-Conforming Member's Margin Deposit (including, without limitation, Margin and Clearing Fund), subject to Subsection A-701(3), to the discharge of:
 - a) the Non-Conforming Member's obligation with respect to any Transaction accepted by the Corporation, whether such failure is caused or not by the Non-Conforming Member;
 - b) a failure or anticipated failure to make any payment to the Corporation required of a Non-Conforming Member, whether such failure is attributable to the Non-Conforming Member or not;
 - c) any loss or expense anticipated or suffered by the Corporation upon the liquidation of the Non-Conforming Member's position;
 - d) any loss or expense anticipated or suffered by the Corporation pertaining to the Non-Conforming Member's obligations in respect of exercised Options or tendered Futures or OTCI for which settlement has not yet been made or in connection with hedging transactions effected for the account of the Corporation pursuant to Rule A-4 in respect of the Non-Conforming Member's positions in Options, Futures and OTCI;
 - e) any protective or hedging transaction effected for the account of the Corporation pursuant to Rule A-4 in respect of the Non-Conforming Clearing Member's positions in Options and Futures;
 - f) any protective or hedging transaction effected for the account of the Corporation pursuant to Rule A-4 in respect of the Non-Conforming Clearing Member's positions in any OTCI; or
 - g) any other situation determined by the Board.

- 3) Each Clearing Member grants to the Corporation a first ranking pledge over all property (including without limitation Margin and Clearing Fund) that constitutes Margin Deposit or other property which may from time to time be in the possession or control of the Corporation, or in the possession or control of a person acting on behalf of the Corporation. This pledge shall secure the performance by the Clearing Member of all of its obligations to the Corporation and, to the extent such pledge relates to Clearing Fund deposits, it shall also secure the performance by another Clearing Member which is a Non-Conforming Member of its obligations to the Corporation, all subject to the provisions of Rule A-6 and the Default Manual, provided that, except for Clearing Fund deposits, Margin Deposits with respect to a Client Account shall only secure the performance by the Clearing Member of its obligations in respect of that Client Account, and Margin Deposits with respect to a Market Maker Account shall only secure the performance by the Clearing Member of its obligations in respect of that Market Maker Account. Notwithstanding the foregoing, if the Clearing Member does not identify its Margin Deposits with respect to each of its accounts, the Corporation shall use all Margin Deposits without distinction as securing all the obligations of the Clearing Member in respect of all its accounts. The Clearing Member shall execute and deliver (or cause to be executed and delivered) such other documents as the Corporation may from time to time request for the purpose of confirming or perfecting the pledge granted to the Corporation by the Clearing Member; provided that the failure by the Corporation to request or by the Clearing Member to execute and deliver (or cause the execution and delivery of) such documents shall not limit the effectiveness of the pledge in favour of the Corporation.
- 4) Except as permitted under Subsection A-609(4) in respect of Clearing Fund deposits, and without limiting the right of the Corporation to invest the Margin Deposits in the form of cash under Subsections A-608(1) and A-709(1), the Corporation shall not grant a pledge over or transfer any property deposited as Margin Deposit by a Clearing Member which has not been designated as a Non-Conforming Member by the Corporation as security for, or in connection with, the Corporation's own obligations to any person.
- 5) Without limiting the rights of the Corporation under Subsection A-701(2), the Corporation may at its sole discretion grant a pledge over or transfer all property deposited with the Corporation as Margin Deposit (including, without limitation, Margin and Clearing Fund) by a Clearing Member which has been designated as a Non-Conforming Member as security for, or in connection with, the Corporation's own obligations to any person incurred in order to obtain liquidity or credit for the purpose of assisting the Corporation to honour its obligations on a timely basis further to the designation by the Corporation of such Clearing Member as being a Non-Conforming Member. In such circumstances, the Corporation shall grant a pledge over or transfer such Non-Conforming Member's Margin Deposits before doing so with respect to the Clearing Fund deposits of other Clearing Members, in accordance with Subsection A-609(4). The Corporation shall be deemed to continue to hold all Margin Deposit deposited with the Corporation, regardless of whether the Corporation has exercised its rights under this Subsection 701(5).
- 6) Any account or sub-account of a Clearing Member with the Corporation that reflects Financial Assets deposited with the Corporation by or on behalf of such Clearing Member for Margin purposes and to which such Financial Assets are credited, shall be considered a securities account for purposes of the QSTA or any similar securities transfer law of any other jurisdiction.