



NOTICE TO MEMBERS

No. 2024 - 136

October 17, 2024

SELF-CERTIFICATION

AMENDMENTS TO THE RULES OF THE CANADIAN DERIVATIVES CLEARING CORPORATION REGARDING VOLUNTARY WITHDRAWAL AND THE LIMITED LIABILITY OF CLEARING MEMBERS

On April 30, 2024, the Board of Directors of the Canadian Derivatives Clearing Corporation (“CDCC”) approved certain amendments to the rules of CDCC (the “Rules”) to limit withdrawing Clearing Members’ exposure to one Default Management Period (“DMP”) following the closing of their outstanding positions and to consolidate in the Rules all aspects of the definition of the DMP.

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 submitted to the Ontario Securities Commission in accordance with the Rule Protocol Regarding the Review and Approval of CDCC Rules by the Commission.

You will find attached hereto the amendments set to come into force and to be incorporated into the Rules of CDCC that will be made available on the CDCC website at www.cdcc.ca on **October 24, 2024, after market close**.

The amendments described in the present notice were published for public comment by CDCC on June 6, 2024 (see Notice [076-24](#)). Further to the publication of this notice, CDCC received comments from one Clearing Member, which you will find attached hereto. Further to the reception of these comments, CDCC made a minor modification to its proposed amendments by adding a slight amendment to its Rules to clarify that the Default Management Period End Date shall occur at the end of the Business Day following the declaration by CDCC that the Default Management Process is completed.

If you have any questions or concerns regarding this notice, please contact Maxime Rousseau-Turenne, Legal Counsel, by email at maxime.rousseau@tmx.com.

Maxime Rousseau-Turenne
Legal Counsel
Canadian Derivatives Clearing Corporation

AMENDMENTS TO THE CDCC RULES

BLACKLINE VERSION

[...]

Section A-1A09 - Voluntary Withdrawal

(1) A Clearing Member may, at any time, notify the Corporation that it wishes to withdraw as a Clearing Member of the Corporation, by giving a minimum of 30 ~~days~~^{days} prior written notice. The Clearing Member shall cease to be a Clearing Member on the later of (a) the date of expiry of the notice period ~~or~~ (b) the date, as determined by the Corporation, on which the Clearing Member has satisfied all of its obligations toward the Corporation and any applicable requirements for withdrawal, including the closing of all the Clearing Member's Open Positions and the performance of any obligation arising in connection with the closing of such Open Positions; or (c) the date on which the Corporation agrees to the withdrawal.

(2) If the withdrawal Withdrawal of a Clearing Member which has provided a prior notice of withdrawal to the Corporation, in the event that becomes effective while a Default Management Period is initiated before the effective date of ongoing, such withdrawal, shall not occur and shall be postponed until the end of the Default Management Period, and such the Clearing Member shall cease to be a Clearing Member at on the date, as determined by the Corporation, on which the Clearing Member has satisfied all of its obligations toward the Corporation, or the date on which the Corporation agrees to the withdrawal.

(3) Notwithstanding the provisions of Section A-1A09(2), during the prior notice period referred to under Section A-1A09(1), the Clearing Member shall be liable to the Corporation for:

(a) while the Clearing Member has outstanding positions, the obligations resulting from all Default Management Periods initiated during such prior notice period referred to under Section A-1A09(1);

(b) once all of the Clearing Member's positions have been closed, the obligations resulting from one (1) Default Management Period initiated after such close-out during the prior notice period referred to under Section A-1A09(1).

(4) The Corporation shall notify all Clearing Members upon receipt of a notice of withdrawal pursuant to Section A-1A09(1).

(5) Upon receipt of a notice of withdrawal pursuant to Section A-1A09(1) from a Non-Conforming Member, the Corporation shall promptly notify the Board, all Clearing Members, the Exchanges, the self-regulatory organization or agency having jurisdiction over the activities of such Non-Conforming Member and any regulatory agency having jurisdiction over the activities of the Corporation and any other entity or organization that the Corporation may consider appropriate, that it has received a notice of withdrawal from such Non-Conforming Member.

[...]

Section A-411 - Default Management Period

(1) A Default Management Period means the period:

(a) commencing on the day that the Corporation declares the suspension of a Clearing Member, and

(b) concluding on the Default Management Period End Date;

provided, however, that if the Corporation declares the suspension of a Clearing Member when a Default Management Period is ongoing due to the prior suspension of another Clearing Member, multiple Clearing Members' suspensions will be processed in a single Default Management Period.

(2) The Default Management Period End Date shall occur ~~at the end of~~ the Business Day following the declaration by the Corporation that the Default Management Process is completed and:

(a) the obligations, losses or expenses incurred or sustained by the Corporation in connection with the suspension(s) of Non-Conforming Member(s) are known, or can reasonably be determined, and have been satisfied or otherwise settled; or

(b) any of the actions, rights or remedies available to the Corporation with respect to the suspension of any Clearing Member that were deemed necessary by the Corporation have been taken; and

(c) ~~the Default Management Period with respect to the suspended Clearing Member(s) has been completed.~~ the Corporation has successfully reestablished a matched book.

[...]

AMENDMENTS TO THE CDCC RULES

CLEAN VERSION

[...]

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(2) If the withdrawal of a Clearing Member becomes effective while a Default Management Period is ongoing, such withdrawal shall not occur and shall be postponed until the end of the Default Management Period, and the Clearing Member shall cease to be a Clearing Member on the date, as determined by the Corporation, on which the Clearing Member has satisfied all of its obligations toward the Corporation, or the date on which the Corporation agrees to the withdrawal.

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(b) any of the actions, rights or remedies available to the Corporation with respect to the suspension of any Clearing Member that were deemed necessary by the Corporation have been taken; and

(c) the Corporation has successfully reestablished a matched book.

[...]

Notice 076-24 : AMENDMENTS TO THE RULES OF THE CANADIAN DERIVATIVES CLEARING CORPORATION REGARDING VOLUNTARY WITHDRAWAL AND THE LIMITED LIABILITY OF CLEARING MEMBERS

Comments received from a Clearing Member and responses from CDCC

No.	Clearing Member Comments	CDCC Responses				
Email received on July 3, 2024						
1.	<p>We refer to your request for comment from June 5, 2024, regarding the amendments to the rule of CDCC related to the voluntary withdrawal and the limited liability of clearing members. Clearing Member, as a member of CDCC considers the current member liability rules to be of an uncapped nature. Such membership liabilities are a primary focus to Clearing Member, not only because we believe this transpose systemic risk from a clearinghouse to its member base, but also as we receive questions from our global regulators on why we have and maintain memberships at clearinghouses where member liability is uncapped. As a result, we appreciate the efforts of CDCC to amend its rules with the aim to cap a member’s liability.</p> <p>SUMMARY: The primary issue with the proposed rule changes to obtain a capped liability designation is, that there is no fixed timeframe in the current definition of a Default Management Period, such that there is lack of certainty around the period over which a member would have a cap on its liability. Effectively, the Default Management Period could be too short for a resigning member to reasonably close out its positions. As a result, such resigning member, is not afforded the protection of section A-1A09.3. b resulting in such member being exposed to an unquantifiable</p>	<p>We received your feedback regarding the amendments to the rules of CDCC related to voluntary withdrawal and the limited liability of Clearing Members and we thank you for the opportunity to review our initiative and provide clarifications. We understand that capping member liability towards clearing houses is an important risk management practice for our Members we are of the view that the current proposal is aligned with this goal. In that spirit, we reviewed your comments and would like to provide some observations and clarifications for each proposed Clearing Member approach:</p> <table border="1" data-bbox="1087 948 1923 1013"> <thead> <tr> <th data-bbox="1087 948 1444 1013">CM proposed approach</th> <th data-bbox="1444 948 1923 1013">CDCC observations</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	CM proposed approach	CDCC observations		
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(and therefore uncapped) default fund replenishment. It is for this reason that we strongly recommend CDCC to insert a minimum length for the default management period which would align with the minimum amount of time in which a resigning member can reasonably close out its positions. While this timeframe could vary depending on the products cleared, a period of at least five business days would be aligned with the capped period contemplated by other major Futures CCPs in Americas.

FURTHER DETAIL:

- The proposed Section A-1A09 - Voluntary Withdrawal (1) rules provide CDCC with significant discretion on the date on which the withdrawal of the clearing member takes effect as this could extend beyond a 30-day period.
- The proposed Section A-1A09 - Voluntary Withdrawal (3) rules state that withdrawing clearing members will be subject to losses from any default management periods (“DMP”) that commence before such member closes out its open positions. Given that a DMP could theoretically only take 3 hours, replenishments of a newly sized Guarantee Fund become due as resigning member has not yet closed out its positions and therefore is not afforded the protection of rule A-1A09.3.b (*see below an example with a Clearing Member being subjected to three DMPs prior to closing out its open positions*).

Based on the proposed rule amendments, uncapped liability for withdrawing members continues to exist as a result of:

Approach 1 (preferred approach): *CDCC should aim to introduce a formal cooling-off period under which maximum losses for single and multiple defaults within such period are consolidated and limited to a pre-defined cap. As this approach provides a cap for continuing members, it reduces incentive to withdraw to limit liability and thereby preventing a rush to exit. The duration of such cooling off period should be aligned with notice period for resigning members (i.e., 30 days).*

While we are not aware of a Canadian regulatory-defined concept of a cooling-off period, and there is no specific Canadian regulatory obligation to introduce one, CDCC understands the paramount importance of Clearing Members being able to quantify their maximum exposure vis-a-vis the CCP in case of a participant default. Currently, CDCC rules explicitly cap Clearing Members' exposure at 200% of their Clearing Fund contributions per the Default event. Please note that this cap is in place regardless of the number of Clearing Members defaulting within one Default Management Period. As a result, CM can at any time assess its exposure to CDCC.

The proposed implementation of a defined cooling-off period, as per Approach 1, presents a significant challenge for CDCC. This challenge stems from CDCC's status as a Cover-1 CCP, as its default fund size is designed to cover the default of the largest Clearing Member only in extreme yet plausible scenarios. In contrast, other CCPs with Cover-2 status boast a more substantial amount of prefunded resources at their disposal to manage a potential consecutive default during the 30-day cooling-off period. Moreover, considering

- Inability to predict the number of DMPs that could occur prior to withdrawing member position close out.
- The ability of CDCC to resize the Default Fund that members need to replenish post each DMP. This amount is not known ex-ante.
- While we have assumed withdrawing members do not need to replenish their DF contribution once they close out their positions, if this is not the case, then this too contributes to uncapped liability.

PROPOSED SOLUTIONS:

To address the above issues, we have outlined below three proposals to enable members to quantify their maximum Default Fund liability and arrive at a capped liability.

- **Approach 1 (preferred approach):** CDCC should aim to introduce a formal cooling off period under which maximum losses for single and multiple defaults within such period are consolidated and limited to a pre-defined cap. As this approach provides a cap for continuing members, it reduces incentive to withdraw to limit liability and thereby preventing a rush to exit. The duration of such cooling off period should be aligned with notice period for resigning members (i.e., 30 days).
- **Approach 2:** Defining the length of the DMP to a minimum fixed length so that members can close out their positions within this period. This can be done through revising the proposed clause (c) under Section A-411 to read:
 - **Section A-411 - Default Management Period - (2)** “The Default Management

the high concentration of CDCC with a relatively small number of larger financial institutions, the introduction of the Cover-2 status would inevitably lead to a substantial increase in collateral requirements for CDCC Clearing Members.

Period End Date shall occur at the later of five (5) Business Days after the Corporation declares the suspension of a Clearing Member or the Business Day following the declaration by the Corporation that the Default Management Process is completed and: ...”

- **Approach 3: CDCC should aim to limit the member liability by withdrawal.**
 - **Section A-1A09 – Voluntary Withdrawal** - If a Default Management Period is, or successive Default Management Periods are, initiated during the notice period of a resigning member referred to under Section A-1A09(1), the Clearing Member shall only be liable towards CDCC for the obligations resulting from the first Default Management Period initiated, as the case may be.

Numerical Illustration of the issue:

- CM DF requirement = \$100
- CM 1 submits withdrawal notice on Day2 post Default 2
- CM 1 closes out open positions on Day 3 post Default 3

Default event	Day	Time	Max CM DF liability = 3x DF (1x funded DF + 1x replensihment + 1x recovery	Number of DMPs CM 1 subjects to

***Approach 2:** Defining the length of the DMP to a minimum fixed length so that members can close out their positions within this period. This can be done through revising the proposed clause (c) under Section A-411 to read:*

***Section A-411 - Default Management Period - (2)**
“The Default Management Period End Date shall occur at the later*

- *of five (5) Business Days after the Corporation declares the suspension of a Clearing Member or the Business Day following the declaration by the Corporation that the Default Management Process is completed and:*

CDCC currently applies rigorous risk management procedures to protect Clearing Members in case of default events. Margin, Default Risk Capital, Clearing Fund requirements and a 2-day MPOR period are calibrated to manage a default event effectively and minimize the potential impact on the market, with the goal of limiting loss allocation to extreme market scenarios involving large portfolios.

The process for loss allocation is governed by CDCC’s Default Management Plan and Recovery Plan, which are regularly updated, tested, and subject to regulatory oversight.

Each default event is unique and depends on several factors including the size of the defaulter’s portfolio, market conditions our ability to liquidate the defaulter’s portfolio and collateral, and the level of involvement of the surviving Clearing Members. Defaults are rare events in the history of global CCPs and there is no precise definition of the length of a default from PFMI or our regulators. As such, we do not have sufficient data to establish a specific justifiable length for the Default Management Period and CDCC doesn’t want to bind itself to a potentially too

			assessment	
CM DF requirement = \$100				
Default 1 - DMP start	1	9:30 AM	\$300	1
Default 1 - DMP end	1	3:00 PM		
CDCC resized DF post default – CM 1 updated DF requirement = \$120				
Default 2 - DMP Start	1	4:00 PM	\$360	2
Default 2 - DMP end	2	10:00 AM		
CDCC resized DF post default - CM 1 updated DF requirement = \$130				
CM 1 submits withdrawal notice	2	10:30 AM		3
Default 3 - DMP start	2	1:00 PM	\$390	
Default 3 - DMP end	3	10:00 AM		
CDCC resized DF post default - CM 1 updated DF requirement = \$150				
CM 1 closes out	3	10:30 AM		Uncapped liability

..."

aggressive or too long period.

However, it is important to note that managing the default of a Clearing Member involves several critical steps that can vary in duration:

- **Declaration of Default:** Immediate upon determination.
- **Seizure of Defaulter's Collateral and Pledging to Liquidity Facilities:** Same day.
- **Communication to Clearing Members and Regulators:** Same day.
- **Liquidation of Defaulter's Positions via a Broker:** 1+ days, depending on portfolio size.
- **Default Management Auction:** 1-2 days, based on the competitiveness of bids.

Porting of Client Positions to Surviving Clearing Members: 2-3 days, contingent on client numbers and receiving

- CM approvals.
- **Replenishments of the Clearing Fund:** Each replenishment takes at least 1

open positions				as at time that member resigns the \$150 DF requirement is unknown			<p>business day.</p> <ul style="list-style-type: none"> ● Loss Allocation Process and Notification to Clearing Members: At least 2 hours. <p>In addition to the abovementioned steps, in order to use all of the Clearing Members' resources, CDCC will also need to declare recovery and apply all the available recovery tools. Rigorous execution of these processes following best practices may warrant a longer length of the Default Management Period for which a fixed length would create additional risk for the CCP.</p> <p>Given these steps, using all the capped Clearing Member resources would likely extend beyond 3 days. Thus, a 5-day period, similar to other major Futures CCPs in the Americas, appears to be a reasonable conservative assumption for the minimum length of the Default Management Period on the Clearing Member side.</p>
Default 4 - DMP start	4	11:00 AM	\$450				
Default 4 - DMP end	4	3:30 PM					
CDCC resized DF post default - CM 1 updated DF requirement = \$0							
Default 5 - DMP start	5	10:00 AM	\$0				
Default 5 - DMP end	6	10:00 AM		No liability for CM 1 given position close-out under the proposed Section A-1A09 - Voluntary Withdrawal rules			

		<p>Approach 3: CDCC should aim to limit the member liability by withdrawal.</p> <p>Section A-1A09 – Voluntary Withdrawal - <i>If a Default Management Period is, or successive Default Management Periods</i></p> <ul style="list-style-type: none"> • <i>are, initiated during the notice period of a resigning member referred to under Section A-1A09(1), the Clearing Member shall only be liable towards CDCC for the obligations resulting from the first Default Management Period initiated, as the case may be.</i> 	<p>CDCC aims to limit Clearing Member liability by withdrawal, in conjunction with the closing out of the withdrawing Member's positions at CDCC. The rule change proposal would limit the withdrawing Clearing Members' liability to one (1) Default Management Period initiated after the close-out of such Members' positions during the prior notice period referred to under Section A-1A09(1). Clearing Members who still hold open positions after submitting a voluntary withdrawal prior notice will continue to be subject to the same obligations as other Clearing Members as long as they have open positions.</p>
		<p>Given that Clearing Members utilize their individual assumptions to define their maximum exposure to CDCC and to calculate the minimum/maximum time period required for closing their positions, it</p>	

		<p>may be prudent for Clearing Members to establish an assumption for the minimum duration of the Default Management Period which would encompass the minimum time for CDCC's to utilize its Default Waterfall Resources and Recovery Tools fully.</p> <p>As a result and based on the above answers, CDCC considers that the solution submitted to its Clearing Members is the appropriate approach, given the nature of its activities, the number and the size of its Clearing Members, and the volume of trading of its Clearing Members.</p>
<p>Email received on August 6, 2024</p>		
<p>2.</p>	<p>Thank you for taking the time to respond to our suggestions for this member consultation. We appreciate your considerations and the insights that you've shared.</p> <p>We noted your responses to each of our proposed approaches and, while we are of a different view, we understand your current stance on these matters. While Clearing Member appreciates that CDCC is concerned on binding itself to a fixed length of DMP, we kindly request you to consider slightly amending the definition of the DMP end date in the proposed rules for better clarity (see suggested edits in red below). To your point about clearing members making their own assumptions on the time for closing out their positions, the following proposed edits would similarly help us making these assumptions and thus in quantifying our maximum losses over a DMP.</p> <p>Proposed amendments to Section A-411 – Default Management Period:</p>	<p>We believe that the proposed clarification may indeed assist our Clearing Members in quantifying the maximum exposure to CDCC. We will incorporate your suggestion in the final version of the rule update.</p>

A Default Management Period means the period: (a) commencing on the day that the Corporation declares the suspension of a Clearing Member, and (b) concluding on the Default Management Period End Date; provided, however, that if the Corporation declares the suspension of a Clearing Member when a Default Management Period is ongoing due to the prior suspension of another Clearing Member, multiple Clearing Members' suspensions will be processed in a single Default Management Period. (2) The Default Management Period End Date shall occur **at the end of** the Business Day following the declaration by the Corporation that the Default Management Process is completed and ...

As you can see, the above minor edit helps us establish a defined timeframe within which we could achieve a close out of our positions and thus quantify our maximum liability.

We hope this small adjustment is amendable for CDCC as this would help us greatly in addressing our liability concerns.

ADDITIONAL AMENDMENTS TO THE CDCC RULES FOLLOWING THE REQUEST FOR COMMENTS

BLACKLINE VERSION

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(2) If the withdrawal of a Clearing Member becomes effective while a Default Management Period is ongoing, such withdrawal shall not occur and shall be postponed until the end of the Default Management Period, and the Clearing Member shall cease to be a Clearing Member on the date, as determined by the Corporation, on which the Clearing Member has satisfied all of its obligations toward the Corporation, or the date on which the Corporation agrees to the withdrawal.

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(a) while the Clearing Member has outstanding positions, the obligations resulting from all Default Management Periods initiated during such prior notice period referred to under Section A-1A09(1);

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