RULE D2

CLEARING AGENT REQUIREMENTS

2019 CANADIAN PAYMENTS ASSOCIATION

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RULE D2 – CLEARING AGENT REQUIREMENTS

IMPLEMENTED

January 27, 2004

AMENDMENTS PRE-NOVEMBER 2003

Not applicable

AMENDMENTS POST-NOVEMBER 2003


2. Amendment to subsection 5(a). Addition of information to be contained in notice, addition of annual attestation requirements and form, approved by the Board February 23, 2006, effective April 24, 2006.

3. Amendments to subsection 5(a) to reflect Rule E4; and to appendix II to implement an expanded clearing framework. Approved by the Board March 26, 2009, effective May 25, 2009.

4. 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.

5. Amendments to Appendix I to simplify completion of the annual attestation forms that Clearing Agents must submit to the CPA. Approved by the Board December 2, 2010, effective January 1, 2011.

6. Housekeeping amendment and amendments to accommodate the removal of the Endorsement guarantee consequential to amendments to By-law No.3 – Payment Items and ACSS, which came into effect August 17, 2012. Approved by the Board October 3, 2013, effective December 2, 2013.

7. Amendment to section 10 to indicate that the Annual Attestation Form will now be provided by the Association, rather than attached as an appendix to this rule. Approved by the Board September 28, 2017, effective November 27, 2017.

8. Amendment to section 10 to revise the submission due date of the Form D2 – Annual Attestation Form. Approved by the Board November 29, 2018, effective January 2, 2019.
INTRODUCTION

1. This Rule outlines the application procedures for a Direct Clearer or Group Clearer to be appointed by the Board to act as a Clearing Agent, and sets out the requirements and obligations applicable to Clearing Agents.

PART I – APPLICATION PROCEDURES AND CLEARING AGENT STATUS

Clearing Agent Application and Required Documentation

2. A Direct Clearer or Group Clearer may apply to the Board to become a Clearing Agent by completing and submitting the application form attached as Appendix I and providing the following documentation:
   a. a list of Indirect Clearers for whom the applicant intends to act as Clearing Agent;
   b. written confirmation from an authorized representative of each Indirect Clearer listed, appointing the applicant as its Clearing Agent; and
   c. any other documentation that may be required by the Association in connection with the application for Clearing Agent status.

Automatic Revocation

3. If a Member’s status as Direct Clearer or Group Clearer is revoked, its status as a Clearing Agent is also revoked.

Revocation of Clearing Agent Status and Notification by President

4. a. The Board may revoke the Clearing Agent status of a Direct Clearer or Group Clearer that no longer complies with the requirements set out in this Rule.
   b. If the Clearing Agent status of a Direct Clearer or Group Clearer is revoked in accordance with subsection (a), the President shall, as soon as practicable, notify all Members in writing stating the date upon which the revocation will take effect.
PART II – NOTICE REQUIREMENTS

Prior to Acting as Clearing Agent and Notification by President

5. a. Each Clearing Agent, other than a Clearing Agent designated in accordance with section 41 of By-law No. 3 – Payment Items and ACSS, shall give at least 30 days written notice to the President prior to acting for an Indirect Clearer. This notice shall contain the following information where applicable:
   i. the effective date the Clearing Agent intends to begin acting for the Indirect Clearer;
   ii. the type of Items the Clearing Agent will Exchange on behalf of the Indirect Clearer; and
   iii. in the case of Point-of-Service, PIN-less Point-of Service and On-line Items, the network and On-line Payment Service from which these Items arise in accordance with Rule E1, E4 and E2, respectively.

   b. The President shall, as soon as practicable, inform the Direct Clearers and Group Clearers of the notice provided pursuant to subsection (a).

Ceasing to Act as Clearing Agent and Notification by President

6. a. A Clearing Agent shall give at least 30 days written notice to the President and to the Indirect Clearer for which it is ceasing to act, of its decision to cease acting as Clearing Agent for that Indirect Clearer.

   b. The President shall, as soon as practicable, inform the Direct Clearers and Group Clearers of the notice provided pursuant to subsection (a).

   c. Despite subsection (a), the Clearing Agent shall not cease acting for an Indirect Clearer if another Clearing Agent is designated to act for the Indirect Clearer, until the other Clearing Agent has started acting for the Indirect Clearer.

Ceasing to Act Immediately

7. a. Despite subsection 6(a), the Clearing Agent may immediately cease to act for an Indirect Clearer for the reasons set out in subsection 39(1) of By-law No. 3 – Payment Items and ACSS.

   b. A Clearing Agent shall give notice of its decision to immediately cease to act for an Indirect Clearer to the other Clearing Agents acting for the same Indirect Clearer, at least one hour before the notice provided in accordance with subsection (a).
c. The notice required under subsection (b) shall be by telephone, to a designated contact person of the other Clearing Agents, and shall be followed by a written confirmation by facsimile transmission.

d. The other Clearing Agents may unanimously waive the notice or abridge the time for the notice referred to in subsection (b).

Notification to President and to Indirect Clearer and Timing of Short Notice

8. a. Where a Clearing Agent immediately ceases to act for an Indirect Clearer, the Clearing Agent shall give written notice of its decision to the Indirect Clearer concerned and to the President.

b. A notice provided in accordance with subsection (a) must be provided prior to 9:30 a.m. (Ottawa time) to take effect at the end of that ACSS Cycle.

PART III – GENERAL REQUIREMENTS AND OBLIGATIONS

Notification to Other Indirect Clearers, Direct Clearers and Group Clearers

9. a. A Clearing Agent ceasing to act immediately for an Indirect Clearer shall, immediately on ceasing to act, give notice of its decision to its other Indirect Clearers, and attempt to give notice to the other Direct Clearers and Group Clearers.

b. The President shall give notice to every other Direct Clearer and Group Clearer of the Clearing Agent’s decision to immediately cease to act for the Indirect Clearer.

c. Every other Direct Clearer or Group Clearer shall immediately notify every Indirect Clearer for which it acts as Clearing Agent or every entity belonging to the group for which it acts as Group Clearer, as the case may be, of the Clearing Agent’s decision to immediately cease to act for the Indirect Clearer.

Annual Attestation Requirements

10. Every Clearing Agent shall attest that it is in compliance with the requirements outlined in this Rule, relating to the establishment of settlement accounts and disclosure of Clearing Agent arrangements by April 15th of every year by completing and submitting to the CPA Form D2 “Annual Attestation Form”. The attestation form will be provided by the Association.
Direct Clearer and Group Clearer Requirements

11. For added emphasis, every Clearing Agent shall continue to meet all other requirements and obligations applicable to Direct Clearers and Group Clearers, as the case may be, to maintain its Clearing Agent status.

Settlement Accounts of Indirect Clearers

12. Every Clearing Agent shall hold and operate a Settlement Account for each Indirect Clearer for which it acts as Clearing Agent.

Duty to Cooperate

13. If a new Clearing Agent has been designated by an Indirect Clearer in accordance with subsection 41(1) of By-law No. 3 – Payment Items and ACSS, the former and new Clearing Agent shall cooperate to ensure an orderly change in representation.
APPENDIX I – APPLICATION FOR CLEARING AGENT STATUS

1. Name of institution: ________________________________

2. CPA institution number: ______________________________

3. Name, title, address (including e-mail), telephone and facsimile numbers of a contact person for matters relating to the application:

   Name: ____________________________________________
   ____________________________________________
   ____________________________________________

   Address: __________________________________________
   ____________________________________________

   Tel: _______________ Fax: _______________

   E-mail: __________________________________________

4. Expected effective date of appointment:
   ____________________________________________

5. Indirect clearer(s) for whom applicant intends to act as clearing agent and type of Payment Item(s):
   ____________________________________________
   ____________________________________________
   ____________________________________________

Please return to the CPA (c/o Legal Department)
APPENDIX I – APPLICATION FOR CLEARING AGENT STATUS

We'll agree to provide any other information that may be required by the Association in connection with the application for clearing agent status.

Signature of authorized representative:

__________________________________________________________

Name:  

__________________________________________________________

Title:  

__________________________________________________________

Date:  

__________________________________________________________