

RULE 5

CLEARING AND SETTLEMENT OF TRADES

5-101 Ability to Clear and Settle

- (1) Each CNSX Dealer shall:
 - (a) at the time of the entry to the CNSX System of an order for the purchase or sale of a security:
 - (i) be a participant of a Clearing Corporation, or
 - (ii) have entered into an arrangement for the clearing and settlement of trades with a person who is a participant of a Clearing Corporation and such arrangement shall be in a form which is satisfactory to a Clearing Corporation.

5-102 Clearing and Settlement

All trades on the CNSX System shall be reported, confirmed and settled through the Clearing Corporation pursuant to the Clearing Corporation's rules and procedures, unless otherwise authorized or directed by CNSX.

5-103 Settlement of CNSX Trades

- (1) Trades shall settle on the third settlement day after the trade date, unless otherwise provided by CNSX or the parties to the trade by mutual agreement.
- (2) Notwithstanding Rule 5-103(1), unless otherwise provided by CNSX or the parties to the trade by mutual agreement:
 - (a) trades on a when issued basis made:
 - (i) prior to the second Trading Day before the anticipated date of issue of the security shall be settled on the anticipated date of issue of such security, and

- (ii) on or after the second Trading Day before the anticipated date of issue of the security shall settle on the third settlement day after the trade date,

provided if the security has not been issued on the date for settlement such trades shall be settled on the date that the security is actually issued;

- (b) trades for rights, warrants and installment receipts made:

- (i) on the third Trading Day before the expiry or payment date shall be for special settlement on the settlement day before the expiry or payment date;

- (ii) on the second and first Trading Day before the expiry or payment date, shall be cash trades for next day settlement, and

- (iii) on expiry or payment date shall be cash trades for immediate settlement and trading shall cease at 12:00 Noon (unless the expiry or payment time is set prior to the close of business in which case trading shall cease at the close of business on the first Trading Day preceding the expiry or payment),

provided selling CNSX Dealers must have the securities that are being sold in their possession or credited to the selling account's position prior to such sale;

- (c) cash trades for next day delivery shall be settled through the facilities of the Clearing Corporation on the first settlement cycle following the date of the trade or, if applicable, over-the-counter, by noon of the first settlement day following the trade; and

- (d) cash trades that have been designated by CNSX for same day settlement shall be settled by over-the-counter delivery no later than 2:00 p.m. on the trade day.

- (3) Notwithstanding Rule 5-103(1), a CNSX Contract may specify delayed delivery which shall provide the seller with the option to deliver at any time within the period specified in the contract, and, if no time is specified, delivery shall take place at the option of the seller within thirty days from the date of the trade unless the parties by mutual agreement specify a delivery date more than thirty days from the date of the trade.

5-104 Disputes Regarding Trade Reports

- (1) Where there is a dispute between CNSX Dealers regarding a daily trade report prepared by the Clearing Corporation, or any correction to a trade report, it shall be resolved by CNSX if the parties are unable to resolve the dispute.
- (2) The electronic report of a trade as maintained by CNSX shall be taken as definitive evidence of a trade, and any dispute concerning the transaction record shall be resolved by a Decision of CNSX.
- (3) Unless otherwise directed by CNSX, any trade recorded on the trade report shall stand if CNSX has not been informed of a dispute by the end of the Trading Day following the trade.

5-105 Unreasonable Delay in Settlement

CNSX may take such action as CNSX considers appropriate if, in the opinion of CNSX, settlement of a trade appears to be unreasonably or improperly delayed.

5-106 Compulsory Arbitration

- (1) In the event of any dispute arising between CNSX Dealers regarding a CNSX Contract which has not been settled, such dispute shall be submitted to the decision of three arbitrators, who shall be employees of CNSX Dealers not employed by or affiliated with either Dealer involved in the dispute, selected as hereinafter provided, and the decision of the majority of such arbitrators shall be final and binding on all parties.

- (2) The procedure for the nomination of arbitrators shall be as follows:
- (a) The CNSX Dealer believing it to be the injured party shall deliver to the CNSX a written memorandum, stating in a summary way the matter in dispute and the redress the CNSX Dealer claims, and naming its arbitrator;
 - (b) CNSX shall forward a copy of such memorandum to the opposite party, who shall within two clear Business Days after receipt thereof file with CNSX a written memorandum containing its statement of the matter in dispute, and naming its arbitrator and CNSX shall forward a copy thereof to the opposite party and copies of both memoranda so filed to the arbitrators named, and they shall proceed within twenty-four hours after receipt of such memoranda to nominate a third arbitrator;
 - (c) If a party fails to name its arbitrator, CNSX may name one for the CNSX Dealer, and in the event of the two arbitrators named failing to nominate the third arbitrator within the time aforesaid the third arbitrator shall be appointed by CNSX.
- (3) The three arbitrators so named shall forthwith give written notice to the parties of the time and place of their first sitting, which shall be held within two days after the appointment of the third arbitrator and shall require them to be present and to produce any books, documents or papers respecting the matter at issue, and at such time and place, or at any other time and place to which they shall give written notice to the parties, the arbitrators shall hear the parties, shall make such inquiries and receive such evidences as they may deem necessary, and shall decide the subject matter in dispute and fix the cost of the reference and shall make their award and forward the same in writing to CNSX which shall give notice of the same to all the parties concerned.
- (4) The award of such arbitration shall be final and not subject to review or appeal, and shall be binding upon all parties concerned and the *Arbitration Act* (Ontario) shall not apply to any such arbitration.
- (5) No CNSX Dealer shall commence legal proceedings against another CNSX Dealer upon any contract or breach of contract with reference to a CNSX Contract unless and until the CNSX Dealer has given due notice thereof to CNSX and has received notice that CNSX has authorized the commencement of such proceedings.

5-107 Corners

- (1) If CNSX is of the opinion that a single interest or group has acquired such control of a security that the security cannot be obtained for delivery on existing CNSX Contracts except at prices and on terms arbitrarily dictated by such interest or group, CNSX may postpone the time for delivery on CNSX Contracts and provide that any CNSX Contract calling for delivery prior to the time established by CNSX shall be settled by the payment to the party entitled to receive such security of a fair settlement price.
- (2) If the parties to any CNSX Contract that is to be settled by payment of a fair settlement price cannot agree on the amount, CNSX shall fix the fair settlement price and the date of the payment after providing each party with an opportunity to be heard.

5-108 When Security Disqualified, Suspended or No Fair Market

- (1) CNSX may postpone the time for delivery on CNSX Contracts if:
 - (a) the security is delisted;
 - (b) trading is suspended in the security; or
 - (c) CNSX is of the opinion that there is not a fair market in the security.
- (2) If CNSX is of the opinion that a fair market in the security is not likely to exist CNSX may provide that CNSX Contracts be settled by payment of a fair settlement price and if the parties to a CNSX Contract cannot agree on the amount, CNSX shall fix the fair settlement price after providing each party with an opportunity to be heard.

5-109 Failed Trades in Rights, Warrants and Installment Receipts

- (1) Should fail positions in rights, warrants or installment receipts exist on the expiry or payment date, purchasing CNSX Dealers have the option of demanding delivery of the securities into which the rights, warrants or installment receipts are exercisable, any additional subscription privilege, and any subscription fee payable to a CNSX Dealer, that may be available, such demand shall be made before 4:00 p.m. on the expiry date.
- (2) Where a demand has been made in accordance with Rule 5-109(1), payment by purchasing CNSX Dealers for:
 - (a) the rights, warrants or installment receipts shall be in accordance with normal settlement procedures, but delivery of the rights,

warrants or installment receipts, as the case may be, is not required; and

- (b) the securities into which the rights, warrants or installment receipts are exercisable and payment for any additional subscription privilege shall be made upon delivery of the securities.
- (3) Where a demand has not been made in accordance with Rule 5-109(1), settlement shall be in accordance with normal settlement procedures, but delivery of the rights, warrants or installment receipts, as the case may be, is not required.

5-110 Restrictions on CNSX Dealers' Involvement in Buy-ins

- (1) No CNSX Dealer shall knowingly permit any person on whose behalf a Buy-In Notice has been issued to fill all or any part of such order by selling the securities for the account of that person or an associated account and prior to selling to a buy-in, the CNSX Dealer, shall receive written or verbal confirmation that the order to sell is not being placed on behalf of the account of the person on whose behalf the Buy-In Notice was issued or an associated account.
- (2) A CNSX Dealer that issued a Buy-In Notice and the CNSX Dealer against whom a Buy-In Notice has been issued may supply all or a part of the securities provided that the principal supplying the listed securities is not:
 - (a) the CNSX Dealer;
 - (b) a Related Person; or
 - (c) an associate of any person described in Rules 5-110(2)(a) or (b).
- (3) If securities are supplied by the CNSX Dealer that issued the Buy-In Notice, delivery shall be made in accordance with the terms of the contract thus created, and the CNSX Dealer shall not, by consent or otherwise, fail to make such delivery.

5-111 Defaulters

- (1) If a CNSX Dealer against which a CNSX Contract is closed out under this Rule 5 fails to make payment of the money difference between the contract price and the buy-in price within the time specified or fails to conform to an award of arbitrators under Rule 5-106, the CNSX Dealer concerned shall become a defaulter, and notice of such default shall be provided by CNSX to each CNSX Dealer.

- (2) If a CNSX Dealer makes default in, or fails to meet, or admits or discloses an inability to meet, its liabilities or engagements to the Investment Industry Regulatory Organization of Canada, the Canadian Investor Protection Fund or to the Clearing Corporation or to another CNSX Dealer or to the public, the CNSX Dealer concerned may be adjudged a defaulter and notice of such default shall be provided to each CNSX Dealer.
- (3) A CNSX Dealer failing to make delivery to the Clearing Corporation of securities and/or a certified cheque within the time limited by the rules governing the Clearing Corporation may be adjudged a defaulter.

5-112 Verified Statement of Outstanding CNSX Contracts

Where in connection with an audit of a CNSX Dealer, another CNSX Dealer has verified in writing a statement of outstanding CNSX Contracts with the CNSX Dealer, such verification shall be binding and any outstanding CNSX Contracts not disclosed on such statement shall be unenforceable between the CNSX Dealers.

5-113 Delivering CNSX Dealer Responsible for Good Delivery Form

- (1) **Delivering CNSX Dealer Responsible for Form of Certificate** – The delivering CNSX Dealer is responsible for the genuineness and complete regularity of the listed security, and a certificate that is not in proper negotiable form shall be replaced forthwith by one which is valid and in prior negotiable form, or by a certified cheque in lieu thereof, if a replacement certificate is not available.
- (2) **Where Certificates Delivered Not Acceptable to Transfer Agents** – A CNSX Dealer that has received delivery of a certificate that is not acceptable as good transfer by the transfer agent shall return it to the delivering CNSX Dealer, which shall make delivery of a certificate that is good delivery or of a certified cheque in lieu thereof.