

RULE 30

EARLY WARNING SYSTEM

30.1. A Dealer Member shall be designated in early warning level 1 or level 2 according to its capital, profitability and liquidity position from time to time and frequency of designation or at the discretion of the Corporation as provided in this Rule 30. The terms and definitions used in this Rule shall have the same meanings as used in Statement C and Schedules 13 and 13A to Form 1 of the Corporation, unless otherwise defined in the [Rules](#) or the context requires, and reference shall be made to such Statement and Schedules in interpreting this Rule 30.

30.2 LEVEL 1.

A Dealer Member shall be designated in early warning level 1 if at any time:

Liquidity

Its early warning reserve is a negative number; or

Capital

Its risk adjusted capital is less than 5% of total margin required; or

Profitability

1. The quotients obtained by dividing each of
 - (a) Risk adjusted capital as at the date of calculation; and
 - (b) Risk adjusted capital as at the end of the preceding month.

By the average of the net profit or loss (before interest on internal [subordinated debt](#), bonuses, income taxes and extraordinary items) for the six month periods ending with (i) the current month and (ii) the preceding month, respectively, where such average is a loss, are both greater than or equal to three but less than six, or
 - (c) The quotient obtained using the number in paragraph (a) as a divisor is greater than or equal to three but less than six and the quotient using the number in paragraph (b) as a divisor is less than three; or
2. The risk adjusted capital at the time of calculation is less than six times the net loss (as defined above) for the current month; or

Discretionary

The condition of the Dealer Member, in the sole discretion of the Corporation, is not satisfactory for any reason including, without limitation, financial or operating difficulties, problems arising from record keeping conversion or significant changes in clearing methods, the fact that the Dealer Member is a new Dealer Member or the Dealer Member has been late in any filing or reporting required pursuant to the [Rules](#).

30.3. If a Dealer Member is designated in early warning level 1 then, notwithstanding the provisions of any Rule (other than Rule 30.5) or Ruling of the Corporation, the following provisions shall apply:

- (i) The chief executive officer and chief financial officer of the Dealer Member shall immediately deliver to the Corporation a letter containing the following:
 - (1) Advice of the fact that any of the circumstances in Rule 30.2 are applicable;
 - (2) An outline of the problems associated with the circumstances referred to in (1);

- (3) An outline of the proposal of the Dealer Member to rectify the problems identified; and
- (4) An acknowledgement that the Dealer Member is in early warning category and that the restrictions contained in Rule 30.3(iv) apply;

A copy of which letter shall be provided to the Dealer Member's auditor and to the Canadian Investor Protection Fund;

- (ii) The Corporation shall immediately designate the Dealer Member as being in an early warning category level 1 and shall deliver to the chief executive officer and chief financial officer a letter containing the following:
 - (1) Advice that the Dealer Member is designated as being in early warning category level 1;
 - (2) A request that the Dealer Member file its next monthly financial report required pursuant to Rule 16.2 no later than 15 business days or, in the discretion of the Corporation if he or she considers it to be practicable, such earlier time following the end of the relevant month;
 - (3) A request that the Dealer Member respond to the letter as required under paragraph (iii) and that such response, together with the notice received pursuant to paragraph (i), will be forwarded to the Canadian Investor Protection Fund and may be forwarded to any [securities commission](#) having jurisdiction over the Dealer Member;
 - (4) Advice that the restrictions referred to in paragraph (iv) shall apply to the Dealer Member;
 - (5) Such other information as the Corporation shall consider relevant;
- (iii) The chief executive officer and the chief financial officer of the Dealer Member shall respond by letter signed by them both within five business days of receipt of the letter referred to in paragraph (ii), with a copy to be sent to the Dealer Member's auditor, containing the information and acknowledgement required pursuant to paragraphs (1)(2), (3) and (4), to the extent not previously provided, or an update of such information if any material circumstances or facts have changed.
- (iv) If and so long as the Dealer Member remains designated as being in an early warning category, it shall not without the prior written consent of the Corporation:
 - (1) Reduce its capital in any manner including by redemption, re-purchase or cancellation of any of its shares;
 - (2) Reduce or repay any indebtedness which has been subordinated with the approval of the Corporation;
 - (3) Directly or indirectly make any payments by way of loan, advance, bonus, dividend, repayment of capital or other distribution of assets to any director, officer, partner, shareholder, [related company](#), [affiliate](#) or associate; or
 - (4) Increase its non-allowable assets (as specified by the Corporation) unless a prior binding commitment to do so exists or enter into any new commitments which would have the effect of materially increasing the non-allowable assets of the Dealer Member;

- (v) If and so long as the Dealer Member remains designated as being in an early warning category it shall continue to file its monthly financial reports within the time specified pursuant to clause (2) of Rule 30.3(ii);
- (vi) As soon as practicable after the Dealer Member is designated as being in an early warning category, the Corporation shall conduct an on-site review of the Dealer Member's procedures for monitoring capital on a daily basis and prepare a report as to the results of the review.

The Corporation shall also report monthly to the applicable District Council of the Corporation of the fact that a Dealer Member has been designated as being in an early warning category level 1 without naming the Dealer Member.

No Dealer Member shall enter into any transaction or take any action, as described in any of sub-clauses (1), (2), (3) or (4) of clause (iv) of this Rule 30.3 which, when completed, would have or would reasonably be expected to have the effect on the Dealer Member as described in any of paragraphs (a), (b), (c) or (d), without first notifying the Corporation in writing of its intention to do so and receiving the written approval of the Corporation prior to implementing such transaction or action.

30.4 LEVEL 2.

A Dealer Member shall be designated in early warning level 2 if at any time:

Liquidity

Its early warning excess is a negative number; or

Capital

Its risk adjusted capital is less than 2% of total margin required; or

Profitability

1. The quotients obtained by dividing each of
 - (a) Risk adjusted capital as at the date of calculation; and
 - (b) Risk adjusted capital as at the end of the preceding month,
By the average of the net profit or loss (before interest on internal [subordinated debt](#), bonuses, income taxes and extraordinary items) for the six month periods ending with (i) the current month and (ii) the preceding month, respectively, where such average is a loss, are
 - (c) Both less than three, or
 - (d) The quotient obtained by using the number in paragraph (b) as a divisor is greater than or equal to three but less than six, and the quotient obtained by using the number in paragraph (a) is less than three, or
2. The risk adjusted capital at the date of calculation is less than three times the net loss (as defined above) for the current month; or
3. The risk adjusted capital at the time of calculation is less than the total net profit or loss (as defined above) for the three months ending with the current month; or

Discretionary

The condition of the Dealer Member, in the sole discretion of the Corporation, is not satisfactory for any reason including, without limitation, financial or operating difficulties, problems arising

from record keeping conversion or significant changes in clearing methods, the fact that the Dealer Member is a new Dealer Member or the Dealer Member has been late in any filing or reporting required pursuant to the [Rules](#).

Frequency

1. It has been designated in an early warning level (any combination of levels 1 and 2) three or more times in the preceding six months; or
 2. It has been designated in early warning level 1 under the Profitability criteria and at the time has been designated in early warning level 1 under either the Liquidity or Capital criteria.
- 30.5 If the Dealer Member is designated as being in early warning level 2, the following provisions shall apply in addition to the provisions of Rule 30.3 which shall continue to apply except to the extent inconsistent with this Rule 30.5:
- (a) The chief executive officer and the chief financial officer of the Dealer Member shall immediately deliver to the Corporation a letter advising that the circumstances of this Rule 30.5 are applicable to the Dealer Member;
 - (b) The Dealer Member shall file its monthly financial reports required pursuant to Rule 16.2 no later than 10 business days, or, in the discretion of the Corporation if considered to be practicable, such earlier time following the end of the relevant month;
 - (c) The chief executive officer and the chief financial officer of the Dealer Member shall attend at the offices of the Corporation to outline the proposals of the Dealer Member for rectifying the problems which account for the Dealer Member being designated as being in early warning category Level 2;
 - (d) The Dealer Member shall file a weekly capital report containing the same information required in a monthly financial report pursuant to Rule 16.2 no later than five business days or, in the discretion of the Corporation if considered to be practicable, such earlier time following the end of the relevant week;
 - (e) The Dealer Member shall file weekly on a form prescribed by the Corporation a report of its aged segregation deficiencies and an explanation of the actions proposed to be taken pursuant to Rule 2000.10 to correct such deficiencies;
 - (f) The Dealer Member shall prepare and file a business plan relating to the Dealer Member's business within such time, for such period and covering such matters as the Corporation may direct;
 - (g) The Corporation may request and the Dealer Member shall provide in such time as the Corporation considers practicable, such reports or information, on a daily or a less frequent basis, as may be necessary or desirable in the opinion of the Corporation to assess and monitor the financial condition or operations of the Dealer Member;
 - (h) The Corporation shall report monthly to the applicable District Council of the Corporation of the fact that a Dealer Member has been designated as being in an early warning category level 2 and any restrictions imposed in respect to Rule 30.6 without naming the Dealer Member;
 - (i) The Dealer Member shall pay, at the discretion of the Corporation, the reasonable costs and expenses of the Corporation incurred in connection with the administration of this Rule 30 in respect of the Dealer Member;

- (j) The amount of client's free credit balances permitted to be used by a Dealer Member pursuant to Rule 1200 may be reduced to such amount as the Corporation may in his or her opinion consider desirable.

30.6 Imposition of Prohibitions - Early Warning Level 2

- (1) The Corporation may order that a Dealer Member designated as being in Early Warning Level 2, pursuant to Rule 30.4, be prohibited from:
 - (a) opening any new branch offices;
 - (b) hiring any new registered representative, or investment representative;
 - (c) opening any new customer accounts; or
 - (d) changing, in any material respect, the inventory positions of the Dealer Member.
- (2) Written notice of an order made under subsection (1) shall be provided to the Dealer Member.

30.7 Review of Early Warning Level 2 Prohibitions

- (1) The Dealer Member may request a hearing panel review of a Rule 30.6 order within three business days after release of the decision.
- (2) If a request for review is made, the hearing shall be held as soon as reasonably possible and no later than twenty-one calendar days after the request for review, unless otherwise agreed by the parties. The hearing panel review shall be conducted in accordance with the requirements set out in Consolidated Rule 9300 (Regulatory Review Proceedings).
- (3) If a Dealer Member does not request a review within the time period prescribed in subsection (1), the Rule 30.6 order becomes effective and final.

30.8 The Corporation shall promptly advise any other participating institution of the Canadian Investor Protection Fund of which a Dealer Member is also a member of the fact that the Dealer Member has been designated as being in early warning category level 2, the reasons for such designation and any sanctions or restrictions that have been imposed upon the Dealer Member pursuant to Rule 19 or Rule 30.

30.9 A Dealer Member shall remain designated as being in early warning level 1 or level 2, as the case may be, and subject to the provisions in this Rule 30 as are applicable, until the latest filed monthly financial reports of the Dealer Member, or such other evidence or assurances as may be appropriate in the circumstances demonstrate, in the opinion of the Corporation, that the Dealer Member no longer is required to be designated as being in an early warning category and the Dealer Member has otherwise complied with this Rule 30.

