

Trading Appendix 6 / Clearing Appendix 6

# Market Conduct Rules

Commodity Derivatives

Issued by Nasdaq Oslo ASA and Nasdaq Clearing AB

## MARKET CONDUCT RULES

### 1 INTRODUCTION

- 1.1 These Market Conduct Rules have been issued by the Exchange under the Trading Rules for Trading in the Exchange Listed Products cf. Section 4.1.2 of the General Terms and the respective Clearing Membership Agreement and Clearing Client Agreement.
- 1.2 The provisions herein applies to (i) Account Holders, (ii) Exchange Members and (iii) clients of Exchange Members hereinafter referred to as "**Market Participants**".
- 1.3 Exchange Members can require that any client that is not an Account Holder under agreement with the Clearinghouse signs the acceptance form in Enclosure 2, and shall keep record of such statements, to be provided to the Exchange upon request.
- 1.4 Section 2 applies to Block Trades, EFPs and EFSs, while the sections 3 to 8 is generally applicable as provided for.
- 1.5 Words with capital letters in this document are defined in the Definitions, being a joint appendix to the Trading Rules and the Clearing Rules. In addition, these Market Conduct Rules with enclosures include certain specific definitions also with capital letters, and shall be interpreted accordingly when used herein.

### 2 REPORTING OF BLOCK TRADES, EFPs AND EFSs

- 2.1 The provisions of this Section 2 apply to: Block Trades, EFPs and EFSs, hereinafter referred to as "**Reportable Transactions**".
- 2.2 When submitting a transaction to the Exchange via the Block Trade Facility, Exchange Members shall include information indicating:
  - a) the Product Series;
  - b) the buyer and seller to the Transaction and Block Broker Member where applicable;
  - c) the Contract Price;
  - d) the number of Instruments in the Exchange Series concerned, denoted as "volume" or "quantity";
  - e) Contract Time;
  - f) off order book trade type, and if applicable the benchmark trade flag;
  - g) Trader ID or Block Broker Member where applicable<sup>1</sup>;
  - h) in what trading capacity the Transaction is submitted;
  - i) Clearing or Trading Account; and
  - j) any additional information as required by the Exchange or Clearing Rules and the prevailing functionality of the Clearing System or the Trading System, including the applicable technical documentation, protocol and contract specifications (where relevant).
- 2.3 Block Trades with Contract Time within Exchange Opening Hours, or 15 minutes or less before the start of Exchange Opening Hours, shall be reported within 15 minutes after their Contract Time. This also applies to Block Trades entered into between an Exchange Member and a client.
- 2.4 Block Trades with Contract Time outside Exchange Opening Hours, except those with Contract Time 15 minutes or less before the start of Exchange Opening Hours, shall be reported at the start of the following Exchange Opening Hours on a Bank Day.

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<sup>1</sup> Subsection g) effective as of 2 January 2018.

2.5 Reportable Transactions shall be reported electronically through the Trading System as provided in the Block Trade Facility Procedures or as.

a. Single-sided registrations: Exchange Members may report a buy or sell side of a Block Trade to the Exchange, in which case the other party must arrange registration of an opposite and matching single-sided registration with the Exchange or the Co-Operating Exchange, nominating the original Exchange Member as counterparty to the Block Trade. Only matching and opposite single-sided registrations from the parties to the Block Trade will be deemed to represent a report to the Exchange. Single-sided registrations that have not been matched by an opposite single-sided registration by the end of Exchange Opening Hours on the applicable Bank Day will be cancelled.

b. Joint (two-sided) registration: An Exchange Member may report both sides of a Block Trade to the Exchange if both parties to the Block Trade have sent to the Exchange a written notification thereof in such form as the Exchange shall prescribe from time to time. A Block Broker Member may report both sides of a Block Trade to the Exchange if both parties to the Block Trade have appointed such person as their Block Broker Member with the Exchange or the Co-Operating Exchange, as relevant.

### **3 REPORTING OF POSITIONS<sup>2</sup>**

3.1 The provisions of this Section 3 apply to reporting of positions of Exchange Listed Products which are Commodity Derivatives, Emission Allowances or derivatives thereof, hereinafter referred to as "**Reportable Positions**". For the avoidance of doubt, economically equivalent OTC contracts shall not be reported under this section 3.

**3.2** Market Participants shall on a format prescribed by the Exchange report details of their own Reportable Positions as well as those of their clients and the clients of those clients until the end client is reached, hereinafter referred to as "**Position Reports**".

3.3 Position Reports are due on T+1 of any Bank Day or if T+1 is not a Bank Day on the next Bank Day thereafter at the time prescribed by the Exchange and as set out in Genium INET Market Model Nasdaq Commodities.

3.4 The Exchange will, if the thresholds and requirements of Article 83 of Commission Delegated Regulation (EU) 2017/ 565 are met, make public a weekly report with the aggregate information as reported in the Position Report. The Exchange will communicate the report to the Competent Authority and to ESMA that will also publish the information included in those reports, hereinafter referred to as the "**Weekly Report**".

3.5 The Exchange will, on a daily basis, provide the Competent Authority with a complete breakdown of the positions held by all persons as reported in the Position Report according to section 3.3, hereinafter referred to as the "**Daily Report**".

### **4 POSITION LIMITS<sup>3</sup>**

4.1 The Exchange's Competent Authority shall establish and apply position limits on the size of a net position which a person can hold at all times in commodity derivatives traded on trading venues and economically equivalent OTC contracts as defined in MiFID Article 57, hereinafter referred to as "**Position Limits**". The Competent Authority is responsible for the application of the Position Limits.

4.2 The provisions of this Section 4 set out the position management controls to be applied by the Exchange to enforce Position Limits. The Exchange has currently not developed own position limits as a mean to control positions held on Commodity Derivatives traded on the Exchange, but for the purpose of position limits being developed by the Exchange or if being

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<sup>2</sup> Section 3 Reporting of Positions is not effective until MiFID II is implemented and has entered into force in Norwegian law. Notification of the effective date will be published in due time.

<sup>3</sup> Section 4 Position Limits is not effective until MiFID II is implemented and has entered into force in Norwegian law. Notification of the effective date will be published in due time.

instructed by the Competent Authority, the following position management controls allow the Exchange to:

- 4.2.1 monitor the open interest positions in Exchange Listed Products which are Commodity Derivatives, and which are reported in the Position Report; and
- 4.2.2 access information, including all relevant documentation about the size and purpose of a position or exposure entered into, information about beneficial or underlying owners, any concert arrangements, and any related assets or liabilities in the underlying market; and
- 4.2.3 require a Market Participant to terminate or reduce a position held by the Market Participants or by other persons as reported in the Position Report, on a temporary or permanent basis as the specific case may require and to unilaterally take appropriate action to ensure the termination or reduction if the Market Participant does not comply; and
- 4.2.4 where appropriate require a Market Participant to provide liquidity back into the market at an agreed price and volume on a temporary basis with the express intent of mitigating the effects of a large or dominant position.

## **5 INSIDE INFORMATION, PROHIBITION ON INSIDER TRADING AND DUTY OF CONFIDENTIALITY**

- 5.1 The term “**Inside Information**” shall mean any information of a precise nature which has not been made public relating directly or indirectly, to one or more Exchange Listed Products, and which Market Participants would expect to receive in accordance with accepted market practice.
- 5.2 If the Market Participant concerned is in doubt as to whether certain information constitutes Inside Information, it shall contact the Exchange’s market surveillance department in order to be advised on how to handle the situation. Any statement from the Exchange in such respects is for guidance only and cannot be interpreted as a final or binding opinion on behalf of the Exchange, nor shall the Exchange be liable for any advice given in such respects.
- 5.3 Exchange Members may not register new Orders in ETS or call in Orders to MTS or enter into Exchange Transactions or Reportable Transactions, when holding Inside Information, except as follows:
  - a. When registering or calling in Orders or entering into Transactions in Exchange Listed Products to which the Inside Information does not relate.
  - b. When performing trading if the trading operations are separated from the departments where persons employed are holding Inside Information, and provided that there has been no exchange of Inside Information between the trading operations and such other departments. A Market Participant must upon request document to the Exchange that the member has implemented adequate information barriers and other mechanisms between the trading operations and the department(s) or person(s) holding the Inside Information (commonly referred to as “Chinese Walls”, “Firewalls” or similar designation), which effectively prevents the disclosure of Inside Information to the Exchange Trading operations.
  - c. In respect of Client Transactions when the Client, to the best of the Exchange Member’s knowledge, does not hold Inside Information. This exception does not apply to active portfolio management or other investment decisions by the Exchange Member, and the Exchange Member may not advise anyone in respect of trading when holding Inside Information.
- 5.4 A Market Participant including its board of directors and employees are subject to a duty of confidentiality in respect of Inside Information and may not disclose any Inside Information to persons or entities whom such information does not concern, prior to the information being distributed to and published by the Exchange.
- 5.5 The entities and persons referred to in Section 3.4 may not advise anyone in respect of trading when holding Inside Information.

## **6 DISCLOSURE REQUIREMENTS**

- 6.1 A Market Participant shall disclose any information regarding the Market Participant's own business or facilities of which the Market Participant concerned owns or controls or has the balance responsibility for in whole or in part, in particular information relevant to facilities for production, consumption or transmission of electricity, where this is information which is reasonably expected to be disclosed or is required to be disclosed in accordance with legal or regulatory provisions at the Union or national level, market rules, contract, practice or custom, on the relevant commodity derivatives markets or spot markets.

## **7 MARKET MANIPULATION**

- 7.1 Market Participants and Exchange Traders shall not engage in Market Manipulation as defined in Enclosure 1.

## **8 GOOD BUSINESS CONDUCT**

- 8.1 Market Participants must not apply unreasonable business methods when carrying out Exchange Trading, but always seek to act in accordance with good business conduct.

## **9 DUTY TO PROVIDE INFORMATION TO THE EXCHANGE UPON REQUEST**

- 9.1 Market Participants and their board of directors and employees are, upon written request by the Exchange, under an obligation to as soon as possible provide the Exchange with all information the Exchange considers relevant in respect of the Exchange's role in surveillance of the Market Conduct Rules and other applicable laws and regulations.
- 9.2 The duty to provide information under Section 7.1 applies regardless of any confidentiality undertakings and other duties of silence the Market Participant may be placed under, confer also the Exchange Act 2007 Section 26 (7) regarding Exchange Members.
- 9.3 Any Market Participant that is not an Exchange Member must ensure that information required under Section 7.1 may be provided irrespective of any legal duty of confidentiality that the Market Participant or its board of directors or employees may otherwise owe to clients.
- 9.4 Information received by the Exchange's surveillance department following a request upon Market Participants may only be utilized by the Exchange for the purpose of surveillance of the Market Conduct Rules and other applicable laws and regulations, investigation of possible breaches of such rules and sanctioning of such breaches.
- 9.5 Employees and directors of the Exchange are, pursuant to the Exchange Act 2007 Section 14, subject to a duty to ensure that no other party (including other directors or employees of the Exchange with no relevant interest in the information) gain access to or knowledge of matters relating to the business or personal affairs of third parties as they become aware of through their employment or appointment, save to the extent required by supervisors or otherwise required or allowed by law.
- 9.6 The Exchange may impose a daily charge on an entity or person that does not comply with Section 7.1, running until the entity or person provides the information.
- 9.7 Under the Exchange Act 2007 Section 30, a daily charge under Section 7.6 will constitute a legal basis for the Exchange's claim equivalent to a decision made by a Norwegian court of law, as far as Exchange Members and persons related to Exchange Members are concerned. Accordingly, after having imposed a daily charge the Exchange may initiate legal proceedings under the Enforcement Act 1992 against such entity or person in order to seize their assets to secure the claim.
- 9.8 The Exchange is not permitted to inform the public that the Exchange has initiated investigation of named Market Participants, unless special reasons so warrants and only after a pre-warning to the entity subject to investigation. Such information shall be in a neutral manner. The Exchange may also disclose the results of such investigations.

**10 DUTY TO PROVIDE INFORMATION TO THE FINANCIAL SUPERVISORY AUTHORITY OF NORWAY**

- 10.1 Market Participants shall notify the Financial Supervisory Authority of Norway immediately if the Market Participant reasonably suspects that a transaction might constitute insider trading or market manipulation, cf the Norwegian Securities Trading Act section 3-11.

**11 BREACH OF MARKET CONDUCT RULES – DISCIPLINARY SANCTIONS**

- 11.1 In the event that a Market Participant is in breach of the rules above, the Exchange may decide on one or more of the following actions against this party:
- a. Issue an oral warning,
  - b. Issue a warning in writing,
  - c. In the event of a serious breach, impose a Violation Charge on the Market Participant of up to NOK 2,500,000. Such charge shall be decided taking into account the nature and severity of the breach, including whether the breach has been intentional, whether the Market Participant or its board of directors or employees may otherwise be blamed, any mitigating circumstances, as well as other relevant factors.
- 11.2 In the event that an Exchange Trader is responsible for a breach of the rules above, the Exchange may decide on one or more of the following actions against this person:
- a. Issue an oral warning,
  - b. Issue a warning in writing,
  - c. Withdraw the approval of the Exchange Trader
- 11.3 Enclosure 3 include procedures for disciplinary sanctions.

## Enclosure 1

### DEFINITION OF MARKET MANIPULATION

#### 1 GENERAL DEFINITION

1.1 The term "**Market Manipulation**" shall mean

- a. Transactions or Orders to trade:
  - (i) which give, or are likely to give, false or misleading signals as to the supply of, demand for or price of an Exchange Listed Product; or
  - (ii) which secure, by a person, or persons acting in collaboration, the price of one or several Products at an abnormal or artificial level;unless the person who entered into the transactions or issued the orders to trade establishes that his reasons for so doing are legitimate and that these transactions or orders to trade conform to accepted market practices as specified in section 3 below; or
- b. Transactions or Orders to trade which employ fictitious devices or any other form of deception or contrivance; or
- c. Dissemination of information through the media, including the Internet, or by any other means, which gives, or is likely to give, false or misleading signals as to Exchange Listed Products, including the dissemination of rumours and false or misleading news, where the person who made the dissemination knew, or ought to have known, that the information was false or misleading.

#### 2 SPECIFIC PROHIBITIONS

2.1 The following conduct will always be deemed to constitute Market Manipulation:

- a. Conduct by a person, or persons acting in collaboration, to secure a dominant position over the supply of or demand for an Exchange Listed Product which has the effect of fixing, directly or indirectly, purchase or sale prices or creating other unfair trading conditions; or
- b. The buying or selling of an Exchange Listed Product at the close of the market with the effect of misleading investors acting on the basis of closing prices; or
- c. Taking advantage of occasional or regular access to the traditional or electronic media by voicing an opinion relevant to a Product while having previously taken positions on that Product and profiting subsequently from the impact of the opinions voiced on the price of that instrument, without having simultaneously disclosed that conflict of interest to the public in a proper and effective way.

#### 3 ACCEPTED MARKET PRACTICES RELEVANT TO THE EXCHANGE

(None at present)

#### 4 NON-EXHAUSTIVE SIGNALS FOR INTERPRETATION

4.1 When an assessment is made as to whether an Order or trade violates Section 1 letter (a), the following non-exhaustive signals, which should not necessarily be deemed in themselves to constitute Market Manipulation, shall be taken into account:

- a. the extent to which Orders to Trade given or transactions undertaken represent a significant proportion of the daily volume of transactions in the relevant financial instrument on the regulated market concerned, in particular when these activities lead to a significant change in the price of the financial instrument;
- b. the extent to which Orders to Trade given or transactions undertaken by persons with a significant buying or selling position in a financial instrument lead to significant changes in the price of the financial instrument or related derivative or underlying asset admitted to trading on a regulated market;

- c. whether transactions undertaken lead to no change in beneficial ownership of a financial instrument admitted to trading on a regulated market;
  - d. the extent to which Orders to trade given or transactions undertaken include position reversals in a short period and represent a significant proportion of the daily volume of transactions in the relevant financial instrument on the regulated market concerned, and might be associated with significant changes in the price of a financial instrument admitted to trading on a regulated market;
  - e. the extent to which Orders to trade given or transactions undertaken are concentrated within a short time span in the trading session and lead to a price change which is subsequently reversed;
  - f. the extent to which Orders to trade given change the representation of the best bid or offer prices in a financial instrument admitted to trading on a regulated market, or more generally the representation of the order book available to market participants, and are removed before they are executed;
  - g. the extent to which Orders to trade are given or transactions are undertaken at or around a specific time when reference prices, settlement prices and valuations are calculated and lead to price changes which have an effect on such prices and valuations.”
- 4.2 When an assessment is made as to whether an order or trade violates Section 1 letter (b) the following non-exhaustive signals, which should not necessarily be deemed in themselves to constitute Market Manipulation, shall be taken into account:
- a. whether Orders to trade given or transactions undertaken by persons are preceded or followed by dissemination of false or misleading information by the same persons or persons linked to them; and
  - b. whether Orders to trade are given or transactions are undertaken by persons before or after the same persons or persons linked to them produce or disseminate research or investment recommendations which are erroneous or biased or demonstrably influenced by material interest.

## **5 SPECIFIC DEFINITIONS FOR ENCLOSURE 1:**

- 5.1 When used in this Enclosure 1:
- a. **“Transactions”** shall mean Exchange Trades, and trades in electricity in the Nordic electricity market.
  - b. **“Orders to trade”** shall mean orders for Exchange Trading in Exchange Listed Products, other orders relating to Exchange Listed Products, and orders to trade electricity in the Nordic electricity market.



**Enclosure 2**

**Acceptance form for clients**

The undersigned, being an entity trading Exchange Listed Products at the Exchange as a client of ..... as Exchange Member, hereby states as follow:

I have received a copy of the Market Conduct Rules and hereby accept and acknowledge that I am under a duty to comply with the Market Conduct Rules as applicable at any time. I further acknowledge that the Market Conduct Rules are under surveillance by and sanctioned by the Exchange, and in this respect the Exchange holds (as a beneficiated party to this agreement) the rights against me as provided for in the Market Conduct Rules.

I also acknowledge that the Exchange may, regardless of its duty of confidentiality but subject to the provisions in the Market Conduct Rules, inform the public of the fact that the Exchange has initiated investigation of any named entity in respect of the Market Conduct Rules and that the Exchange may also disclose the results of such investigations, including sanctions.

Date/place

(signature of client)

This statement shall be recorded with the Exchange Member and disclosed to the Exchange upon request.

## **Enclosure 3**

### **DISCIPLINARY PROCEDURES**

#### **1 INTRODUCTION**

- 1.1 This document includes the rules and procedures relevant to disciplinary sanctions of breaches of the Market Conduct Rules.
- 1.2 Words with capital letter in this document are defined in the Trading Rules and Clearing Rules and shall have the same meaning in this appendix.

#### **2 THE DISCIPLINARY COMMITTEE**

##### **2.1 Appointment**

- 2.1.1 The board of directors of the Exchange (the "Board") shall appoint a Disciplinary Committee (the "Disciplinary Committee") to advise the Board in disciplinary matters under the Market Conduct Rules.
- 2.1.2 The Disciplinary Committee shall consist of three or five members, all to be appointed by the Board for a two year term.
- 2.1.3 The members shall be carefully elected to secure high competence in legal and market matters and proper representation of the Exchange Members and the Exchange in the Disciplinary Committee.
- 2.1.4 Exchange Members and associations representing Market Participants may present the Board with proposals for members to the Disciplinary Committee.
- 2.1.5 One member of the Disciplinary Committee shall preferably be a person with updated market knowledge, a second member shall preferably be a qualified lawyer with expertise in electricity markets trading while a third member preferably shall be an employee of the Exchange.

##### **2.2 Procedural rules**

- 2.2.1 As the Disciplinary Committee is an advisory body, the procedural rules of the Norwegian Public Administration Act 1967 Chapter VI cf. the Exchange Act 2007 Section 32, shall not govern its procedures but the rules below with any additional instructions from the Board.
- 2.2.2 The Disciplinary Committee shall have a chairman and deputy chairman elected by the Board. The chairman shall be responsible for summoning members for meetings, and lead the meetings. A member that can not meet shall as soon as possible report to the chairman, who then shall decide on a new date for the meeting. If a new meeting can not be summoned within two weeks, the meeting shall take place as original planned.
- 2.2.3 In the chairman's absence the work of the Disciplinary Committee is chaired by the deputy chairman. If the deputy chairman is also absent, the work of the committee is chaired by whichever attending member ranks next after the deputy chairman.
- 2.2.4 The Disciplinary Committee is in quorum when minimum two members summoned attend. All matters shall be decided by simple majority. If only two members are present the chairman has the deciding vote.
- 2.2.5 The chairman shall be responsible for keeping records of the meetings and proceedings of the Disciplinary Committee.

##### **2.3 Confidentiality**

- 2.3.1 The members of the Disciplinary Committee including deputies shall sign declarations where they accept a strict duty of confidentiality in all matters coming to their knowledge in their capacity as members, cf. the principles of the Exchange Act 2007 Section 14. This confidentiality duty shall also prohibit any member that is an employee of the Exchange from disclosing such matters to the Exchange.

## **2.4 Miscellaneous**

- 2.4.1 The remuneration to the members of the Disciplinary Committee and deputies shall be decided by the Board based among other things on the work hours spent each year. The chairman may be remunerated additionally.
- 2.4.2 The Exchange shall have the exclusive right and obligation to make publicly available all written recommendations from the Disciplinary Committee to the Board.

## **3 PROCEDURES FOR DISCIPLINARY SANCTIONS**

### **3.1 The surveillance department**

- 3.1.1 If the Exchange's surveillance department suspects a breach of the Market Conduct Rules and its investigation supports this suspicion, then the surveillance department may recommend disciplinary sanctions against the Market Participant(s) and/or Exchange Trader(s), as further provided for in the Market Conduct Rules.
- 3.1.2 Any recommendation for disciplinary sanctions shall be in writing and be filed with the Disciplinary Committee with copies to the relevant Market Participant(s) or Exchange Trader(s), and to the Board. A Market Participant shall always be copied in on filings related to his Exchange Trader(s).
- 3.1.3 Irrespective of the above, the surveillance department of the Exchange may issue oral warnings to Market Participants and/or Exchange Traders without filing with the Disciplinary Committee.

### **3.2 The advice of the Disciplinary Committee**

- 3.2.1 The Disciplinary Committee may upon receiving a filing as provided for above, request the Exchange's surveillance department to further investigate the case at hand and develop the factual and legal analysis or recommendation.
- 3.2.2 The filing copy shall invite the Market Participant(s) and Exchange Trader(s) involved to present their views to the Disciplinary Committee within two weeks. The Market Participant or Exchange Trader may respond in writing or request a meeting with the Disciplinary Committee to present his or her views. The Market Participant or Exchange Trader is not under any obligation to present his or her views as the Exchange Act 2007 Section 26 seventh paragraph does not apply with regard to the Disciplinary Committee.
- 3.2.3 The Disciplinary Committee may in special circumstances conduct its own investigations including by assigning tasks to qualified lawyers and other experts, at the Exchange's cost. The Board shall be pre-notified and may veto any assignment at its discretion or set limits for the costs to be accrued.
- 3.2.4 The Disciplinary Committee shall present its recommendation to the Board as soon as possible, and at latest within (4) weeks of the filing with the Disciplinary Committee unless the Board extends this time limit. The recommendation shall be in writing, with copies to the relevant Market Participant(s) and Exchange Trader(s) involved, and include a factual description with legal reasons.

### **3.3 The Board's decision**

- 3.3.1 The Board shall in its full discretion decide if and what disciplinary sanctions that shall be applied against the Market Participant(s) and/or Exchange Trader(s).
- 3.3.2 The Board's decision shall be notified to the relevant Market Participant(s) and Exchange Trader(s), and the Disciplinary Committee.

### **3.4 Complaint to the Exchange Appeal Committee**

- 3.4.1 An Exchange Member may if the Exchange imposes a Violation Charge, file a complaint with the Exchange Appeal Committee, subject to further rules in the Exchange Regulations. Similarly an Exchange Member or other person may complain to the Exchange Appeal Committee if the Exchange imposes a daily charge under the Exchange Act 2007 Section 30.
- 3.4.2 Such filing imposes a stay on the proceedings concerned, with the exemption for daily charges.

3.4.3 The Exchange agrees that Section 3.4 shall also apply to Market Participants not being Exchange Members. However, handling of an appeal will then also require the consent from the Exchange Appeal Committee.

3.4.4 This Section 3.4 does not prohibit a Market Participant from instigating court proceedings following an appeal being decided or dismissed by the Exchange Appeal Committee.

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