

Clearing Appendix 13

# Supplemental default rules for Clearing Transactions recorded on Direct Clearing Accounts

Issued by Nasdaq Clearing AB

## **SUPPLEMENTAL DEFAULT RULES FOR CLEARING TRANSACTIONS RECORDED ON DIRECT CLEARING ACCOUNTS**

### **1 APPLICATION**

- 1.1 Where a Direct Clearing Agent in respect of a Direct Clearing Account is subject to a Material Default Event, the Clearinghouse shall take the steps set out in this Appendix in respect of the Clearing Transactions registered on such Direct Clearing Account.

### **2 INTERPRETATION**

- 2.1 Capitalized terms herein shall have the meanings assigned to them below and in the Clearing Rules.

**Back-up Direct Clearing Agent** In respect of a Direct Clearing Client, a General Clearing Member or Clearing Member that has agreed to act in such capacity on behalf of such Direct Clearing Client.

**Direct Clearing Account Assets** In respect of a Direct Clearing Account, all Collateral in the Collateral Custody Account in the name of the Direct Clearing Client pledged to, or otherwise provided to, the Clearinghouse in respect of such Direct Clearing Account.

### **3 STEPS TO BE TAKEN BY THE CLEARINGHOUSE**

- 3.1 Where a Material Default Event has occurred to a Direct Clearing Agent to which this Appendix applies, the Clearinghouse shall:
- a. take any action permitted or required by applicable law as it shall deem necessary in respect of the Direct Clearing Accounts managed by the defaulting Direct Clearing Agent;
  - b. satisfy itself that the Direct Clearing Client is not in default under its obligations to provide Collateral to the Clearinghouse;
  - c. for each Direct Clearing Client of the defaulting Direct Clearing Agent:
    - (i) ascertain whether such Direct Clearing Client has appointed a Back-up Direct Clearing Agent to act as its Direct Clearing Agent in respect of the Direct Clearing Account;
    - (ii) ascertain whether such Direct Clearing Client consents to having all Clearing Transactions registered on its Direct Clearing Account administered by the defaulting Direct Clearing Agent being administered by such Back-up Direct Clearing Agent pursuant to section 4;
    - (iii) once satisfied as to (i) and (ii), send details of such Clearing Transactions to such Back-up Direct Clearing Agent and ascertain whether such Back-up Direct Clearing Agent provides its consent to administer a Direct Clearing Account on behalf of such Direct Clearing Client; and
    - (iv) if such Back-up Direct Clearing Agent provides its consent, ensure that such Back-up Direct Clearing Agent has entered into a Direct Clearing Client Agreement as are required in order for such Back-up Direct Clearing Agent to operate a Direct Clearing Account on behalf of the Direct Clearing Client.

### **4 DIRECT CLEARING CLIENT PORTING**

- 4.1 Where the Clearinghouse has determined that the requirements set out in section 3 have been met in respect of a Direct Clearing Client, the Clearinghouse shall, subject to (a) satisfaction of any requirements to post Collateral and/or make payments in respect of the aggregate of all Daily Cash Settlement instructions since the last Daily Cash Settlement instruction was satisfied in respect of the Direct Clearing Account administered by the

defaulting Direct Clearing Agent; and (b) execution by the Direct Clearing Client of a Direct Clearing Client Agreement with the Back-up Direct Clearing Agent:

- a. waive any such prior pledge or general pledge provided in the Clearing Rules or any pledge documentation or other security agreement entered into pursuant to the Direct Clearing Account administered by the defaulting Direct Clearing Agent on behalf of the Direct Clearing Client or any such other Direct Clearing Account;
- b. treat the related Direct Clearing Account Assets in respect of that Direct Clearing Client as being provided in relation to the Direct Clearing Account administered by such Back-up Direct Clearing Agent for such Direct Clearing Client.

## **5 CONSENTS AND CONDITIONS**

- 5.1 For the purposes of section 3.1c, the relevant Direct Clearing Client and Back-up Direct Clearing Agent may provide their consent to the Clearinghouse orally or in writing (including by facsimile and email) and such consent, once received by the Clearinghouse, shall be irrevocable. If the Clearinghouse has not received all necessary consents within such time period as it determines in its sole discretion, or any other requirement in section 3.1 not being met, then section 4 shall not apply, and the Clearinghouse shall instead act in accordance with section 6.

## **6 ALLOCATION AND RETURN OF DIRECT CLEARING ACCOUNT BALANCE**

- 6.1 In relation to a Direct Clearing Client of a defaulting Direct Clearing Agent the Clearinghouse shall:
- a. have the right to elect, without consulting the defaulting Direct Clearing Agent or the Direct Clearing Client and at the defaulting Direct Clearing Agent's or Direct Clearing Client's expense,
    - (i) to take one or more of the measures stated in section 8 of the General Terms of the Clearing Rules which in such case shall be equally applicable to such Direct Clearing Client of a defaulting Direct Clearing Agent;
    - (ii) following the taking of any such measures, calculate the amount due to the Clearinghouse or from the Clearinghouse in respect of such Direct Clearing Account (including where appropriate any such fees, costs or expenses of the Clearinghouse in taking such action or making such determination); and
    - (iii) (x) where an amount is owed to the Clearinghouse, apply such of the Direct Clearing Account Assets as are required to meet such amount or (y) where an amount is owed by the Clearinghouse, pay such amount to the Direct Clearing Client subject to the execution of appropriate documentation (which may, without limitation, include an indemnity (secured or otherwise) and a release of the Clearinghouse from any liability) between the Clearinghouse and such Direct Clearing Client.

## **7 TERMINATION OF DIRECT CLEARING CLIENT AGREEMENT**

- 7.1 Where
- a. the requirements set out in section 3 have been met in respect of a Direct Clearing Client and the Clearinghouse has taken the steps set out in section 4.1 above; or
  - b. the Direct Clearing Agent's membership agreement with the Clearinghouse has been terminated by the Clearinghouse; or
  - c. if the Direct Clearing Agent is a Non-Clearing Member, the Direct Clearing Agent's membership agreement with the Exchange has been terminated by the Exchange; or
  - d. (i) there are no Open Positions registered in the relevant Direct Clearing Accounts; and (ii) there is no amount owing to the Clearinghouse by the Direct Clearing Client;

the Clearing Client may terminate its Direct Clearing Client Agreement with the defaulting Direct Clearing Agent.

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