

Clearing Appendix 4

# Non Exchange Clearing Procedures

Commodity Derivatives

Issued by NASDAQ OMX Clearing AB

## **NON EXCHANGE CLEARING PROCEDURES**

### **1 APPLICATION**

- 1.1 These Non Exchange Clearing Procedures contain detailed provisions on the registration and processing of Clearing Requests in respect of Non Exchange Transactions, and form an integral part of the Clearing Rules.

### **2 SUBMITTAL OF CLEARING REQUESTS**

- 2.1 Account Holders (and their Non Exchange Trading Brokers) may submit Clearing Requests in respect of Non Exchange Transactions to the Clearinghouse until the final time for Registration as set out in the individual Contract Specifications of each Series. Clearing Clients may only submit Clearing Requests through their Client Representative.
- 2.2 Clearing Requests may be submitted through the Clearing System in accordance with these Non Exchange Clearing Procedures, provided that the Clearing System User Terms are observed and complied with at all times.
- 2.3 As a backup arrangement to Section 2.2 the Clearinghouse may, in its own discretion and subject to satisfactory confirmation relating to authentication and other issues which the Clearinghouse finds relevant and appropriate, register a Clearing Request in the Clearing System on behalf of the Account Holder or Non Exchange Trading Broker following instructions submitted outside the Clearing System.
- 2.4 All Clearing Requests, including telephone conversations and other communication with the Clearinghouse in connection with registration of Clearing Requests, may be recorded and kept by the Clearinghouse in accordance with applicable law, and may be used to determine the factual contents of such communication for the purpose of operation the Clearinghouse or to comply with applicable law.

### **3 USE OF NON EXCHANGE TRADING BROKERS**

- 3.1 Non Exchange Trading Brokers may represent Account Holders except for Clearing Clients in Clearing of Non Exchange Transactions.
- 3.2 The following provisions will apply where a Non Exchange Trading Broker is acting for an Account Holder in respect of Clearing of Non Exchange Transactions:
  - a. Non Exchange Trading Brokers act only as intermediaries, and shall not be Counterparties to any Clearing Transactions in which they are involved.
  - b. Non Exchange Trading Brokers may only submit Clearing Requests in respect of Non Exchange Transactions when it is party to a valid and effective Non Exchange Trading Broker Agreement at the relevant time.
  - c. For the purposes of dealing with any Clearing Requests in respect of Non Exchange Transactions or Clearing Transactions registered by the Non Exchange Trading Broker, the Account Holder shall release the Clearinghouse from any confidentiality obligations owed by it to the Account Holder in respect of such Clearing Requests or Clearing Transactions.
  - d. Non Exchange Trading Brokers are generally authorised to act on behalf of the Account Holder in all Clearing Requests and Clearing Transactions where the Non Exchange Trading Broker is or has been involved. The Account Holder remains fully responsible to the Clearinghouse for all Clearing Requests and Clearing Transactions registered on its behalf by its Non Exchange Trading Broker(s), regardless of whether the Non Exchange Trading Broker has acted on or in accordance with its instructions.
- 3.3 Once a Non Exchange Trading Broker has submitted a Clearing Request, the Non Exchange Trading Broker (i.e. the individual registering the Clearing Request or its Contact Person) shall be available by telephone on the same Bank Day for a period of thirty (30) minutes following Contract Time of the applicable Transaction.

### **4 CLEARING REQUESTS**

- 4.1 Clearing Requests in respect of Non Exchange Transactions must be submitted to the Clearinghouse within the final time for Registration for a Series as set out in the relevant Contract Specifications.

- 4.2 A Clearing Request must state the following information applicable to the Non Exchange Transaction submitted for Clearing in order to be valid:
- a. the identity of the parties involved and, if applicable, their Client Representative;
  - b. the Series;
  - c. the number of Contracts traded;
  - d. the Contract Price (in the applicable currency);
  - e. the Contract Time (date, hour and minute) within a deviation of maximum 30 seconds;
  - f. the Clearing Account (and Clearing Portfolio) to which the Non Exchange Transaction shall be allocated;
  - g. any additional information as mandated and/or allowed by (i) the Clearing Rules and/or (ii) the prevailing functionality of the Clearing System.
- 4.3 Clearing Requests may be registered by the involved parties and Non Exchange Trading Brokers as follows:
- a. Single-sided registrations: An Account Holder may register a buy or sell side of a Non Exchange Transaction for Clearing, in which case the other party must register an opposite and matching single-sided registration with the Clearinghouse, nominating the original Account Holder as counterparty to the Non Exchange Transaction. Only matching and opposite single-sided registrations from the parties involved will be deemed to represent a Clearing Request. Single-sided registrations that have not been matched by an opposite single-sided registration by the end of Clearinghouse Opening Hours on the applicable Bank Day will be cancelled.
  - b. Joint (two-sided) registration: A Non Exchange Trading Broker may register both sides of a Non Exchange Transaction for Clearing. A two-sided registration immediately represents a Clearing Request.

## **5 REGISTRATION**

- 5.1 The Clearinghouse decides in its sole discretion whether or not to approve a Clearing Request in respect of a Non Exchange Transaction on a continuous and revolving basis. The Clearinghouse shall not become counterparty to any such Non Exchange Transaction or Clearing Request, and will only be Counterparty to the corresponding Clearing Transaction(s) when it has been Registered.
- 5.2 A Clearing Request received by the Clearinghouse outside of Clearinghouse Opening Hours will not be processed or Registered by the Clearinghouse until the following Bank Day. If a Clearing Request is received after Clearinghouse Opening Hours, the Clearing Request shall be deemed registered at start of Clearinghouse Opening Hours on the following Bank Day.
- 5.3 Once a Clearing Request has been received by the Clearinghouse, both parties to the Non Exchange Transaction must affirm the existence of such Non Exchange Transaction and its terms in the Clearing System, or via such other process as the Clearinghouse may approve from time to time. Such affirmation must occur prior to the close of the Clearinghouse Opening Hours on the Bank Day following the receipt of the Clearing Request.
- 5.4 As soon as a Clearing Request has been affirmed by both parties involved in accordance with Section 5.3, the Clearinghouse shall carry out Prenovation Checks.
- 5.5 If all relevant Prenovation Checks are passed, the Clearinghouse shall approve the Clearing Request and Register the corresponding Clearing Transaction.
- 5.6 If any relevant Prenovation Check is not passed, the Clearinghouse shall either a) decide (at its discretion) to approve the Clearing Request and Register the corresponding Clearing Transaction; or b) immediately notify the relevant Account Holder(s), and shall inform them of the amount of extra collateral (if any) that needs to be posted by such Account Holder(s) to pass the Prenovation Check.
- 5.7 Once the Clearinghouse has notified an Account Holder that the Prenovation Check has not been passed in accordance with Section 5.6 above, the Account Holder may post extra collateral.
- 5.8 At any point after the Clearinghouse has notified an Account Holder that the Prenovation Check has not been passed in accordance with Section 5.6 above, such Account Holder may

request that the Clearinghouse carry out a new Prenovation Check. The Clearinghouse has no obligation to re-run a Prenovation Check unless such re-run is requested by the relevant Account Holder.

- 5.9 Subject to clause 5.10 below, if, after the Clearinghouse has notified an Account Holder that the Prenovation Check has not been passed in accordance with Section 5.6 above, the Clearinghouse re-runs the Prenovation Checks and they are passed, the Clearinghouse shall approve the Clearing Request and Register the corresponding Clearing Transaction.
- 5.10 If, at the end of Clearinghouse Opening Hours on the Bank Day after the Clearing Request was received by the Clearinghouse, any relevant Prenovation Checks have not been passed, the Clearinghouse shall reject the Clearing Request.
- 5.11 The Clearinghouse reserves the right to reject, cancel or refuse to approve any Clearing Request which in the Clearinghouse's determination would contravene sound Clearing operations, the Clearing Rules, applicable law, or where there is another reasonable foundation for rejection.
- 5.12 The General Terms contain provisions regarding errors in Clearing Confirmations.

## **6 SUSPENSION OF NON EXCHANGE CLEARING**

- 6.1 The Clearinghouse may at any time suspend registration and/or processing of Clearing Requests in respect of Non Exchange Transactions if the Clearinghouse in its own discretion deems this necessary due to market conditions or other reasons, including situations where the Clearing System is unavailable.
- 6.2 Resumption of Non Exchange Clearing shall take place when the Clearinghouse is reasonably satisfied that the cause of the suspension is no longer persisting. Clearing Requests will remain registered during suspension only to the extent this is technically possible applying commercially reasonable efforts.
- 6.3 The Clearinghouse shall inform Account Holders and Non Exchange Trading Brokers about any suspension and resumption of the Non Exchange Clearing as soon as practicable.

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