

To:  
Clearing Members  
Norges Fondsmeglerforbund  
AFME

Oslo, 1 June 2011

## **NOTICE OF AMENDMENTS TO THE CLEARING RULES OF OSLO CLEARING**

Oslo Clearing is proposing amendments to the clearing rules for equity market instruments. We refer to the Clearing Rules Section 1.5. According to this provision Oslo Clearing shall give prior written notice of any planned amendments to the Clearing Rules to all Clearing Members and the Norwegian Securities Dealers Association ("NSDA"). The Clearing Member and/or the NSDA may request, within 5 Clearing Days, prior consultation. The request must be submitted to Oslo Clearing within the 9 June.

Unless any such request is made, Oslo Clearing will formally decide to implement the changes set out in the attachments to this notice. Oslo Clearing will notify its Clearing Members and the NSDA of its decision to amend the Clearing Rules.

We kindly ask you to direct any request, comment or inquiry related this notice to Eirik Nærby, Risk Management - **email: [ein@osloclearing.no](mailto:ein@osloclearing.no)**.

The amendments will come into force 4 weeks after such notification is given. Should there be no request for consultation, the amendments will enter into force on the 7 July.

Below we will in short present the planned changes to the Clearing Rules. The changes are presented hierarchically.

The purpose of this document is solely to give a presentation of certain aspects of the proposed changes. The presentation is not exhaustive, and may not be used as evidence to exclude an interpretation that has not been commented below.

### **1. Changes to the General Terms**

#### **Section 2.3, last paragraph:**

Oslo Clearing proposes that the period for which the Clearing Member may await commencement of the clearing activities after clearing membership is awarded to be extended from 6 months to 12 months. This change is mainly done due to the new rules regarding deactivated membership (see comments to Appendix 2 below).

## 2. Changes to Appendix 1: Definitions

### **Equity Market Instrument:**

The definition of Equity Market Instrument has been adjusted in order to include other exchange traded products than exchange traded funds. Therefore the definition refers to “exchange traded products”. This will allow for an extension of clearing of i.a. exchange traded notes, upon request from the market place.

## 3. Changes to Appendix 2: Clearing Membership Requirements

### **New Section 3.2:**

The planned amendment states that the Clearing Member may commence clearing when Oslo Clearing has confirmed that the requirements set out in Section 3.1 are satisfied. Please also note that the planned amendment to Appendix 3: Clearing Fund Section 1.3 also refers to this provision in order to fix the point in time when a new Clearing Member is liable for a default made by another Clearing Member resulting in the application of funds in the Clearing Fund on a pro rata basis.

### **New Chapter 4:**

The planned amendment specifies that a Clearing Member may request to have its clearing membership deactivated for a shorter period. This may be practical i.a. for a GCM that currently has no NCM in its portfolio. The main effect for the Clearing Member will be that its requirement to contribute to the Clearing Fund will be suspended in the period that the membership is deactivated, as well as that its liability for other Clearing Member’s default will be suspended in the same period. With the current regulation it would be necessary to terminate the clearing membership, and thereafter to reapply for clearing membership to achieve the same. Deactivation of clearing membership shall normally not be given if the intended period of deactivation is less than 6 months, and the period shall normally not last beyond 12 months.

## 4. Changes to Appendix 3: Clearing Fund

### **New Section 1.3:**

See our comment to Appendix 2, Section 3.2.

## 5. Changes to Appendix 5: Fees

### **Section 1.8:**

All of Oslo Clearing’s clearing related fees are exclusive of any VAT and/or other charges, which have now been clearly set out in Section 1.8.

### **Section 3:**

Oslo Clearing proposes, as already communicated to the market, to make an adjustment to the settlement discipline program (Failed Delivery Management Fee) whereby the receiving Clearing Member shall receive a portion of the fee received by Oslo Clearing. The details as to this are set out in Appendix 5, Section 3.4.

## **6. Changes to Appendix 7: Settlement**

### **New Section 7.1.8/Deletion of Section 7.3.4:**

Appendix 7, Section 7 sets out the provisions that apply in case of buy-in transactions. Currently Section 7 states that delivery of a buy-in transaction will take place 3 Clearing Days after it has been executed. However, a possible outcome may be that the buy-in transaction fails and Oslo Clearing therefore is unable to make delivery within T+3 after execution of the buy-in transaction. The purpose of this amendment is therefore to state that delivery may take place at a later stage than T+3, however, that if delivery has not taken place within T+5, the cash compensation rules (cf. Section 8) shall apply.

### **Change to Section 7.4.4:**

The purpose of the change is to specify that the defaulting Clearing Members obligation to compensate Oslo Clearing for the buy-in transaction is dependant on that the buy-in transaction is delivered to Oslo Clearing. If no delivery takes place the defaulting Clearing Member will be liable to pay compensation in accordance with Section 8: Cash Compensation.

### **Section 9.2:**

Section 9.2 is amended in order to clarify that Corporate Action entitlement includes Corporate Actions where the entitlements are adopted after record date. This may be the case where the board of directors of a listed company decides to go through with a rights offering to the existing shareholders following a private placement (no.: *reparasjonsemisjon*). In this situation the record date is set prior to the date that the shareholders' meeting formally adopts the execution of the rights offering (the Corporate Action). The Corporate Action Procedures are also amended to clarify this.

## **7. Corporate Action Procedures**

### **7.1 Oversubscription**

#### **New Section 2.7/Changes to Section 4.2/4.5/8.4/8.7:**

There is consensus between the Corporate Action Reference group and Oslo Clearing to exclude the current possibility for submitting a Liability Request Notice ("LRN") with oversubscription, where a Failed Delivery is deferred past record date and the relevant corporate action offers to the possibility to oversubscribe. Oversubscription allows for discretionary claims. A rule based on oversubscription ratios may not give fair results, since disclosure of the ratio is facultative. Further, oversubscriptions are based on holdings on the individual CSD-accounts, which may not factor in the actions of individual investors in a nominee account structure. Oslo Clearing proposes that oversubscriptions will not be considered upon submission of a LRN.

7.2 Corporate Action where record date is prior to the decision to execute the corporate action

**New Section 2.9:**

See comments to Appendix 7, Section 9.2.

7.3 Preferential Rights

**New Chapter 9/Change in Section 7.2.1/7.2.4 no. 4:**

Upon Distributions where the Corporate Action entitlement consists of preferential rights the procedure which is set out in the proposed chapter 9 shall apply. Preferential rights are defined as a distribution that consists of a non transferable or non tradable right, or similar. The reason for this is that the procedure set out in Section 7.2 was inadequate for the treatment of preferential rights. In addition Oslo Clearing proposes to set the liability request deadline to 09:00 on Market Deadline for elections related to preferential rights. This gives the defaulting Clearing Member the possibility to take into consideration the elections by the receiving Clearing Member.

Best regards,  
Oslo Clearing ASA



Christian Sjøberg  
Chief Executive Officer