

Default management

Rules governing when an exchange member, clearing member or customer is considered to be in default are stated in section 1.9 in the Rules and Regulations of NASDAQ OMX Derivatives Markets.

1.1 Current default rules

Exchange members, clearing members or end-customers are considered to be in default if:

- i) They breach the Rules and Regulations of NASDAQ OMX Derivatives Markets or other regulations regarding NASDAQ OMX Derivatives Markets' exchange and clearing operations, or
- ii) In the judgment of NASDAQ OMX Derivatives Markets, there is a substantial risk that the exchange member, clearing member or end-customer will breach these rules and regulations or other regulations regarding the exchange or clearing operations.

If exchange members, clearing members or end-customers are in default, NASDAQ OMX Derivatives Markets has the right to elect, at the expense of the defaulting party, to take one or more of the measures stated below.

Unless otherwise specified, NASDAQ OMX Derivatives Markets has the right to take such measures without consulting the defaulting party in advance:

- Withhold settlement or delivery due to the defaulting party.
- Set off all settlements or deliveries due to the defaulting party against settlements or deliveries due to NASDAQ OMX Derivatives Markets.
- Refuse exchange transactions and registration, and also to settle contracts, in their entirety or in part, to the extent that is deemed necessary to avoid sustaining damage. (In this respect, NASDAQ OMX Derivatives Markets has the right to buy or sell contracts on behalf of the defaulting clearing member or end-customer, and to forcibly settle the defaulting clearing member or end-customer's contracts in advance.)
- Seize and realize collateral provided
- Purchase deliverable instruments and also, where the covering purchase is caused by a delay or lack of delivery from a clearing member or end-customer or if, in NASDAQ OMX Derivatives Markets' judgment there exists a risk for delay or lack of delivery, to revoke the delivery and receive payment corresponding to the difference between NASDAQ OMX Derivatives Markets' costs for the covering purchase, together with the fees for the delay in or lack of delivery, and the exercise price or forward price of the contracts in question.
- Sell the contract base and, where a sale is caused by a delay in or lack of settlement by the clearing member or end-customer, or if, in NASDAQ OMX Derivatives Markets' judgment, there exists a risk of delay or lack of settlement, unless a matter of urgency exists, following consultation with the clearing member, NASDAQ OMX Derivatives Markets may revoke the settlement and receive payment corresponding to the difference between the proceeds realized and the exercise price, futures price or equivalent cost for the relevant underlying instrument, together with the fees for default settlement.

- Exclude the exchange member, clearing member or end-customer from NASDAQ OMX Derivatives Markets through the termination of their respective member or end-customer agreements. Upon termination of an exchange member or clearing member, NASDAQ OMX Derivatives Markets shall forcibly settle those contracts into which the exchange member or clearing member has entered on his or her own behalf.
- Where a clearing member is in default, NASDAQ OMX Derivatives Markets has the right to forcibly settle those contracts that were entered into or registered by the clearing member in question on behalf of an end-customer. In order to protect the end-customer as far as possible against damage, forcible settlement of such contracts is effected by re-registering the end-customer's contract with another clearing member. A clearing member in default is required (if requested by NASDAQ OMX Derivatives Markets) to transfer the contracts and such collateral that the end-customer has provided with the clearing member to that new clearing member. If the re-registration of an end-customer's contract with another clearing member cannot be affected for any reason, NASDAQ OMX Derivatives Markets has the right to forcibly settle the end-customer's contracts.

1.2 Default process

The NASDAQ OMX Derivatives Markets Default Committee is the single decision-making authority within NASDAQ OMX Derivatives Markets for evaluating defaults situations and events and deciding which actions to be taken as permitted under the Rules and Regulations of NASDAQ OMX Derivatives Markets as well as any applicable legal agreements. The Chairperson (or approved alternate Chairperson) is the sole decision maker within the Default Committee. However, the Default Committee is made up of the following representatives in order to help ensure that all decision(s) made are well informed decisions.

MEMBERS OF THE NASDAQ OMX DERIVATIVES MARKETS DEFAULT COMMITTEE

- CEO NASDAQ OMX Stockholm
- Head of NASDAQ OMX Transaction Services Nordic Financial Market Clearing
- Head of NASDAQ OMX Transaction Services Nordic Clearing Operations
- Head of NASDAQ OMX Transaction Services Nordic Derivatives Risk Management
- Chief Legal Counsel NASDAQ OMX Stockholm (or alternate legal representative if unavailable)
- Head of NASDAQ OMX Stockholm Security
- Head of NASDAQ OMX Stockholm Communications
- NASDAQ OMX Treasurer Non-US
- Any other person(s) deemed appropriate by the DC during a default situation

As every default event is unique it is impossible to predict decision(s) which would be made during a hypothetical default or future default events. (See section 1.9 of Rules and Regulations of NASDAQ OMX Derivatives Markets for the most up to date reference on applicable actions in default situations).

1.3 Default history

Since NASDAQ OMX Derivatives Markets began its derivatives clearing operations, eight clearing participants have experienced financial difficulties resulting in their forced withdrawal from the clearing. The only financial loss due to a counterparty default that NASDAQ OMX Derivatives Markets has incurred in its history occurred in 1989, see details below.

December 1989: A Swedish-based sole market maker member experienced liquidity problems due to trading losses. After all positions had been closed, the market maker had an unpaid settlement amount for options amounting to SEK 736,000, which was covered by NASDAQ OMX Derivatives Markets' equity reserves.

January 1991: A Swedish-based sole market maker had insufficient capital due to losses in stock options. The pledged collateral was seized to cover the closeout costs. NASDAQ OMX Derivatives Markets did not incur any loss due to the default.

March 1993: The Swedish based brokerage firm Orion Fondkommission AB was placed into bankruptcy and NASDAQ OMX Derivatives Markets required margin covered all the costs associated with the closing of the counterparty's positions. NASDAQ OMX Derivatives Markets did not incur any loss due to the default.

November 2001: UK based Enron Europe Trading Ltd, a member of UKPX, experienced serious financial difficulties. The OMLX and the NASDAQ OMX Derivatives Markets acted early in the progression that led to the bankruptcy of Enron's parent company, Enron USA. When Enron was put into default, closeout costs of GBP 4,442 were incurred when the position was closed out. These costs, together with some miscellaneous items, were, however, fully covered by the collateral pledged. Neither NASDAQ OMX Derivatives Markets nor OMLX incurred any loss due to the default. (*)

November 2002: UK based TXU Europe Energy Trading Ltd. was placed into default after the company filed for administration protection. Default proceedings were initiated with the member's positions being taken over by the clearing organization and liquidated during the trading day. The amounts resulting from position liquidation totaled SEK 204,000. The full settlement amount was paid from excess cash. Neither NASDAQ OMX Derivatives Markets nor OMLX incurred any loss due to the default. (*)

January 2008: Two affiliated indirect pledge end customers of a Finnish bank simultaneously failed to meet their margin requirement pertaining to positions in stock forwards, and were subsequently declared in default. The combined margin requirement was MEUR 121. The positions were liquidated within 24 hours at a cost of MEUR 98. NASDAQ OMX Derivatives Markets did not incur any loss due to the default.

October 2008: A direct pledge end customer filed for suspension of payments and was subsequently declared into default. The customer's stock options portfolio, with a margin requirement of MSEK 9, was liquidated within one hour at a cost of MSEK 7. NASDAQ OMX Derivatives Markets did not incur any loss due to the default.

March 2009: Clearing member Weaving Capital AB failed to comply with the minimum financial criteria for clearing members and was declared to be in default. Weaving Capital AB administered approximately 20 indirect pledge end customers but had no proprietary trading book. Before the end of the day of the default all end customers had been successfully transferred to other clearing members. NASDAQ OMX Derivatives Markets did not incur any loss due to the default.

(*) Enron Europe Trading Ltd and TXU Europe Energy Trading Ltd. were clearing members of UKPX (the UK Power Exchange), a division of the former OMLX (OM London Exchange Ltd.) which at the time was a London-based wholly-owned subsidiary of OMX Nordic Exchange Stockholm AB. Since a part of OMX Derivatives Markets' clearing capital also covered the liabilities of the OMLX and UKPX's operations and as there is only one Default Committee within OMX Derivatives Markets authorized to manage counterparty default events, these default incidents are included in the overview of the default history of NASDAQ OMX Derivatives Markets.