

2021-05-17

## DECISION



Nasdaq Clearing AB  
CEO Julia Haglind  
Copy to: Bjørn Sibbern, Chair of the Board  
and Jan Axelsson, Chief Compliance Officer

FI Ref. 18-22977  
(Obligatory in replies)

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### Investigation concerning risk management

#### Decision by Finansinspektionen

Finansinspektionen closes the case

For information on how to appeal, see *Appendix*.

#### The case

On 11 September 2018, one of Nasdaq Clearing AB's (Nasdaq Clearing or the company) clearing members was declared in default. As a consequence of this event, Finansinspektionen initiated an investigation concerning Nasdaq Clearing's risk management in December 2018. The investigation focused on the circumstances at the time of the default event.

Three further investigations were initiated at the same time and these have been concluded through Finansinspektionen's decision of 26 January 2021 to issue Nasdaq Clearing with a warning combined with an administrative fine.

The aim of the investigation in respect of Nasdaq Clearing's risk management was to establish whether the company was complying with the requirements set out in Regulation (EU) No 648/2012 of the European Parliament and of the Council<sup>1</sup> and relevant articles in Commission Delegated Regulation (EU) No 153/2013<sup>2</sup> in respect of:

- Nasdaq Clearing's margin model for the commodities market, including parameter setting,
- position management,
- clearing capital, and
- how the risk models handle liquidation costs/premiums.

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<sup>1</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

<sup>2</sup> Commission Delegated Regulation (EU) No 153/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties.

Information was gathered between 22 January 2019 and 30 September 2019. Finansinspektionen reported all of its observations and preliminary assessments to Nasdaq Clearing in a verification letter dated 8 May 2019, to which the company responded on 14 June 2019. A request for a statement was sent to Nasdaq Clearing on 11 February 2020 and the company responded on 10 March 2020.

Under Chapter 25, Section 2, second paragraph of the Securities Market Act (2007:528), Finansinspektionen may refrain from intervention for reasons including the company having taken remedial action.

### **Grounds for Finansinspektionen's decision**

The investigation has led to certain observations that Finansinspektionen has deemed to be deficiencies in the company's risk management, including in respect of the calculation of margins and the size of the default fund. Nasdaq Clearing has submitted a plan containing measures that the company has initiated and it intends to complete for the purpose of rectifying the aforementioned deficiencies. In view of this, there is no reason for Finansinspektionen to take further action as a result of the investigation. Consequently, the case is being closed.

Finansinspektionen will be following up Nasdaq Clearing's measures as part of its ongoing supervision and, where applicable, through validation in accordance with Article 49 of EMIR.

FINANSINSPEKTIONEN

Malin Omberg  
*Executive Director*

Gustav Landelius  
*Supervisor*

*This document has been signed electronically.*

The decision has been made by Malin Omberg, Executive Director, on the basis of a report from Gustav Landelius, Supervisor. Clara Ahlqvist, Deputy Director, and Andreas Heed, Acting Deputy Director, have also participated in the final proceedings.

## How to appeal

If you believe the decision is erroneous, it is possible to appeal against it by writing to the administrative court. Address the appeal to the Administrative Court in Stockholm, but send or submit the appeal to Finansinspektionen, Box 7821, 103 97 Stockholm.

Specify the following in the appeal:

- Name, personal ID number or corporate ID number, postal address, email address and telephone number
- The decision you are appealing against and the case number
- What change you would like and why you believe the decision should be changed.

If you engage an agent, specify the name, postal address, email address and telephone number of the agent.

The appeal must be received by Finansinspektionen within three weeks from the day you have received the decision.

If the appeal was received on time, Finansinspektionen will assess whether the decision will be changed and then send the appeal, the documents in the appealed matter and the new decision, if relevant, to the Administrative Court in Stockholm.