

**SUPPLEMENTARY PROVISIONS FOR FX CONTRACTS**

**1 INTRODUCTION**

- 1.1 This document supplements and forms part of the Rulebook for Clearing with NOS (NOS Clearing ASA) (as amended or supplemented from time to time, the "Rulebook") incorporating further provisions in respect of FX Contracts (as defined below).
- 1.2 The provisions contained herein shall prevail over the remainder of the Rulebook in the case of any inconsistency.

**2 DEFINITIONS**

|                               |  |
|-------------------------------|--|
| "FX Bank Disruption Event"    | the occurrence of one or more of (a) an FX Bank Insolvency Event and (b) any event that occurs or action that is taken by or in relation to FX Bank the effect of which is (i) to create a material mismatch between the respective rights, obligations or exposure of NOS and FX Bank under the NOS FX Contracts and NOS and the Clearing Members under the related Member FX Contracts or (ii) to result in any loss, liability, cost, claim, damages or expenses being occurred to NOS. |
| "FX Bank"                     | the counterparty to the FX Contracts entered into by NOS as equivalent and offsetting transactions to the FX Contracts entered into between NOS and its Clearing Members, as well as the FX settlement bank.   |
| "FX Bank Insolvency Event"    | an event analagous to any of the events specified under Section 5(a)(vii) of the ISDA 2002 Master Agreement template occurs with respect to the FX Bank.   |
| "Electronic Trading Platform" | an electronic trading platform offering, <i>inter alia</i> , the trading of FX Contracts, operated by the FX Bank.   |
| "FX Contract"                 | a contract entered into in relation to an FX Product (as defined in the Rulebook).   |

“FX broker”

a company that provides the Clearing Members with access to the Electronic Trading Platform.

Other capitalized terms in this appendix shall have the meaning given to them in the Rulebook.

### 3 FX CONTRACTS APPROVED FOR CLEARING WITH NOS

- 3.1 NOS provides Clearing Members with the clearing of FX Contracts (for the purposes of this Agreement, an "FX Contract" shall mean a "Transaction" as defined in the 1998 FX and Currency Option Definitions, including Annex A, published by the International Swaps and Derivatives Association, Inc., the Emerging Markets Traders Association and the Foreign Exchange Committee (the “**FX Definitions**”)).
- 3.2 In order to facilitate the Clearing of FX Contracts, Clearing Members will access an Electronic Trading Platform as an agent (for execution purposes only) of NOS and, based upon prices displayed on the Electronic Trading Platform, will place orders for entry into FX Contracts between NOS and the FX Bank (such FX Contracts "**NOS FX Contracts**"). Simultaneously, NOS will enter into equivalent and offsetting FX Contracts with the relevant Clearing Members through NOS' open offer model (such FX Contracts, "**Member FX Contracts**").
- 3.3 Each NOS FX Contract entered into between NOS and the FX Bank through the Electronic Trading Platform will be documented by an electronic trade confirmation delivered by the FX Bank to NOS. Simultaneously, each corresponding Member FX Contract entered into between NOS and the relevant Clearing Member will be documented by an electronic trade confirmation delivered by NOS to the Clearing Member.
- 3.4 The FX Definitions shall supplement and form part of each Member FX Contract. Each Clearing Member must familiarize itself with the FX Definitions.

### 4 TRADING AND CLEARING

- 4.1 NOS will offer the Clearing of FX Contracts by way of an open offer model and will act as central counterparty for both the Clearing Members and the FX Bank. For the avoidance of doubt, no Clearing Member shall have any relationship, contractual or otherwise, with the FX Bank and each of (i) the Clearing Members and (ii) the FX Bank shall face and have sole recourse to NOS under the terms of the relevant Member FX Contract.
- 4.2 Prior to accessing the Electronic Trading Platform for the purposes of trading FX Contracts, a Clearing Member will be required to execute terms and conditions governing access to and use of the Electronic Trading Platform with an FX broker responsible for arranging access to the Electronic Trading Platform (the "**Website Terms**"). The Website Terms will govern, *inter alia*, the entry into NOS FX Contracts by Clearing Members in their capacity as agents of NOS. The entry into NOS FX Contracts will be regulated solely by the Website Terms and is not regulated under the Rulebook. The terms of the Member FX Contracts entered into between NOS and the Clearing Members shall however be governed by the Rulebook, as supplemented by this Appendix 11.

## NOS Clearing\*

- 4.3 On accessing the Electronic Trading Platform, a Clearing Member will be provided with certain prices for entry into FX Contracts. When a Clearing Member matches a price for an FX Contract, this will result in NOS entering into an NOS FX Contract with the FX Bank on the basis of such price. Simultaneously, NOS will enter into an equivalent and offsetting Member FX Contract with the Clearing Member through its open offer model. For the avoidance of doubt, no FX Contract will be entered into between any Clearing Member and the FX Bank and the FX Bank shall not be informed of the identity of any Clearing Member.
- 4.4 NOS shall (subject to the limitations stated in this Appendix 11) and according to the further provisions specified in the Rulebook:
- 4.4.1 effect the settlement of Member FX Contracts;
- 4.4.2 request and obtain Collateral from Clearing Members in order to fulfill Margin Requirements in respect of Member FX Contracts; and
- 4.4.3 take action in the event of a default pursuant to Chapter 7 of the Rulebook and this Appendix 11.
- 4.5 Only cash in currencies approved by NOS may serve as Collateral for Member FX Contracts.

## 5 FX ACCOUNT STRUCTURE

### 5.1 Establishment of Accounts

- 5.1.1 NOS will arrange for a separate collateral account and settlement account to be set up for each Clearing Member, against which the Member FX Contracts entered into between that Clearing Member and NOS shall be recorded.

### 5.2 Collateral Sub-accounts

- 5.2.1 NOS will arrange for the FX Bank to establish and maintain on its books and records certain collateral sub-accounts, each of which shall be established in the name of NOS and shall be allocated to a Clearing Member (each a “**Collateral Sub-Account**”). For the avoidance of doubt, the FX Bank shall not be aware of the identity of any Clearing Member and whilst each Collateral Sub-Account will relate to a Clearing Member, each such account shall be identified anonymously.
- 5.2.2 Upon a margin call made by the FX Bank pursuant to a NOS FX Contract, NOS will be required to post FX Collateral to the FX Bank in order to satisfy such margin call. In connection with a margin call received from the FX Bank, NOS will make an equivalent margin call under the corresponding Member FX Contract entered into between NOS and the relevant Clearing Member and the relevant Clearing Member will be required to deposit FX Collateral to its Settlement Sub-Account, as further described in clause 5.3 below. The FX Collateral deposited to the relevant Settlement Sub-Account may subsequently be transferred by NOS to the FX Bank.
- 5.2.3 All deposits of FX Collateral to the Settlement Sub-Accounts shall be the exclusive legal property of NOS. Each Clearing Member will transfer full right and title to the FX Collateral deposited from time to time to its Settlement Sub-Account to NOS

## NOS Clearing\*

pursuant to an FX Collateral Agreement (as referred to in paragraph 5.2.4 below) entered into between that Clearing Member and NOS, such transfer being free and clear from any mortgage, charge, lien, pledge, other security interest or encumbrance, third party right or other restriction. Full right and title to such FX Collateral may subsequently be transferred to the FX Bank by NOS, pursuant to the terms of the relevant collateral agreement entered into between NOS and the FX Bank.

5.2.4 Each Clearing Member will be required to execute a Collateral and Settlement Agreement for FX Contracts with NOS, in the form as attached as Appendix 3 to the Rulebook.

### 5.3 Settlement Account with Settlement Sub-accounts

5.3.1 The FX Bank will for each relevant currency maintain on its books and records a single Settlement Account in the name of NOS. NOS will arrange for the FX Bank to establish certain settlement sub-accounts, each of which will be established in the name of NOS and shall be allocated to a Clearing Member (each, a "**Settlement Sub-Account**", together with the Collateral Sub-Accounts, the "**Member Accounts**"). For the avoidance of doubt, the FX Bank will not be aware of the identity of any Clearing Member whilst each Settlement Sub-Account shall relate to a Clearing Member; each such account shall be indented anonymously. The Settlement Account will serve as a settlement account in respect of the NOS FX Contracts entered into between NOS and the FX Bank.

5.3.2 Each Settlement Sub-Account will serve as a settlement account between NOS and the relevant Clearing Member in respect of the Member FX Contracts entered into by NOS and that Clearing Member.

5.3.3 Each Settlement Sub-Account will serve as a settlement account between NOS and the relevant Clearing Member in respect of the Member FX Contracts entered into by NOS and that Clearing Member.

5.3.4 Each Settlement Sub-Account will also serve as collateral payment account to which the relevant Clearing Member shall deposit the amount of FX Collateral required by NOS to satisfy the Margin Requirement of NOS in respect of the Member FX Contracts entered into between that Clearing Member and NOS and recorded against that Settlement Sub-Account. Such FX Collateral may subsequently be transferred by NOS to the FX Bank to satisfy collateral requirements in relation to the NOS FX Contracts. Information in relation to the amount of FX Collateral provided by a Clearing Member will be made available by NOS to that Clearing Member.

## 5.4 General provisions on Collateral and Settlement Sub-Accounts

- 5.4.1 The Collateral Sub-Accounts will not constitute accounts held by the Clearing Members but shall be accounts held in the name of NOS for the purposes of allocating FX Collateral transferred to the FX Bank. Accordingly, no Clearing Member shall have or be deemed to have a depositor relationship or any other relationship, contractual or otherwise, with the FX Bank.
- 5.4.2 The Settlement Account and the Settlement Sub-Accounts will represent segregated accounts for the relationship between NOS and the Clearing Members. NOS will provide each Clearing Member with the details of the Settlement Sub-Account established for that Clearing Member.
- 5.4.3 Withdrawals from the Member Accounts may only be made by NOS.
- 5.4.4 Any surplus FX Collateral in excess of the Margin Requirement for a Clearing Member may only be withdrawn from the relevant Settlement Sub-Account by NOS, who will, upon instruction from the relevant Clearing Member, transfer such surplus amount to an account of the Clearing Member as directed, provided that such transfer would not result in a Margin Requirement for that Clearing Member.
- 5.4.5 NOS is not responsible for any loss suffered by a Clearing Member as a result of a FX Bank Disruption Event and the relevant Clearing Member will in such event have no claim against NOS in excess of the amounts NOS recovers from the FX Bank or its insolvency estate with respect to the Member Accounts. Consequently, any claim of a Clearing Member arising in connection with a FX Bank Disruption Event will be a limited and unsecured claim against NOS only, and this may result in no part of the FX Collateral or Settlement Amounts owed to that Clearing Member being recovered.
- 5.4.6 Neither NOS nor the Clearing Members can assume to be protected under the depositor guarantee regimes or any other scheme applicable to the FX Bank, and any unsecured claim resulting there from may result in no part of the Collateral or Settlement Amounts owed to a Clearing Members being recovered.
- 5.4.7 In the event that a Clearing Member suffers any loss in connection with a NOS Default, the relevant Clearing Member will have an unsecured claim against NOS or its insolvency estate in respect of the FX Collateral and any Settlement Amounts owed to that Clearing Member. This may result in no part of the FX Collateral or Settlement Amount owed to that Clearing Member being recovered.
- 5.4.8 The Collateral Sub-Accounts will not represent segregated accounts and the FX Collateral recorded against each Collateral Sub-Account will accordingly be co-mingled with and potentially off-set against claims of the FX Bank with respect to NOS FX Contracts entered into by NOS as equivalent transactions to Member FX Contracts recorded against other Collateral Sub-Accounts. However, NOS will assume liability towards each Clearing Member for any amount owed to that Clearing Member that is applied towards off-setting the obligations of other Clearing Members.

## **6 MARGIN REQUIREMENTS INCLUDING PRE-TRADE REQUIREMENT**

- 6.1 The FX Bank will calculate margin in respect each NOS FX Contract.
- 6.2 The margin requirement in respect of each Member FX Contract will be allocated to the corresponding Collateral Sub-Account against which the equivalent Member FX Contract has been recorded. The margin requirement for each NOS FX Contract shall be recorded against the relevant Collateral Sub-Account of the Clearing Member party to the corresponding Member FX Contract as a single amount in Euro or USD.
- 6.3 The margin requirement in respect of each NOS FX Contract will be mirrored as the Margin Requirement under the corresponding Member FX Contract and will be recorded against the Margin Account for the relevant Clearing Member. In order to satisfy its Margin Requirement, each Clearing Member will deposit FX Collateral to its corresponding Settlement Sub-Account. NOS may however at any time require for additional FX Collateral to be provided by the relevant Clearing Member in excess of the Margin Requirement for the Member FX Contracts entered into by that Clearing Member.
- 6.4 The methodology for the calculation of the Margin Requirement in respect of each Member FX Contract and the valuation of FX Collateral may be requested from NOS.
- 6.5 No Member FX Contract may be executed unless the FX Collateral available in the relevant Collateral Sub-Account meets the Margin Requirement for the total Member FX Contracts entered into by the relevant Clearing Member, including the transaction to be executed.

## **7.0 SETTLEMENT**

- 7.1 The settlement of Member FX Contracts between NOS and each Clearing Member shall take place out of the relevant Settlement Sub-Account for that Clearing Member and shall represent a final and binding settlement between NOS and the relevant Clearing Member.

## **8.0 FX BANK DISRUPTION EVENTS AND TERMINATION BY THE FX BANK**

- 8.1 The following shall apply upon the occurrence of a FX Bank Disruption Event:
  - 8.1.1 NOS may suspend the entry into new FX Contracts by its Clearing Members;
  - 8.1.2 NOS may suspend the settlement of outstanding Member FX Contracts entered into by its Clearing Members;
  - 8.1.3 NOS may carry out early termination of outstanding Member FX Contracts with the Clearing Members upon an early termination date set by NOS, as notified to the relevant Clearing Member(s). NOS shall, upon such termination, calculate a total (net) close-out amount for each Clearing Member reflecting the positive or negative value of any Member FX Contracts held by that Clearing Member as of such date, such values to be determined by NOS acting in good faith and using commercially reasonable procedures in order to produce a commercially reasonable result; and

## NOS Clearing\*

- 8.1.4 NOS may, acting in good faith and in a reasonably commercial manner, make such adjustments to the terms of the Cleared Member FX Contracts (including changes to Product Specifications for existing Contracts) as is necessary to reflect any loss, liability, cost, claim, damages or expenses incurred by NOS as a result of the FX Bank Disruption Event.
- 8.2 In order to facilitate the clearing of FX Contracts with its Clearing Members, NOS has entered into a Master Agreement with the FX Bank that includes certain events of default and termination events in addition to the NOS Insolvency Events, upon the occurrence of which the FX Bank will be entitled to carry out an early termination and close-out of the NOS FX Contracts (such early termination a “**FX Bank Termination**”).
- 8.3 In the event of a FX Bank Termination that is not a NOS Insolvency Event, NOS will be entitled to carry out an early termination of the corresponding Member FX Contracts entered into between NOS and Clearing Members as equivalent transactions to the terminated NOS FX Contracts, pursuant to the terms of this Appendix 11. NOS shall then calculate close-out amounts in respect of each Clearing Member corresponding to the net close-out amounts credited or debited by the FX Bank with respect to the relevant Accounts. Upon a partial early termination by the FX Bank of the NOS FX Contracts, NOS shall allocate at its sole discretion such termination among Clearing Members to determine which of the Member FX Contracts shall be subject to early termination.