



FINANSTILSYNET
THE FINANCIAL SUPERVISORY
AUTHORITY OF NORWAY

Nasdaq Oslo ASA – summary of the final report dated 7 January 2019

The Company is a small company in a large group with a number of shared functions and shared documentation. Many services are performed by other companies in the group under extensive outsourcing agreements.

Finanstilsynet has identified challenges regarding the Company's use of shared functions and shared documentation. Finanstilsynet accepts that the Company, as part of a large group, finds it expedient to make use of group bodies, plans, policies, guidelines and procedures. This must not, however, be at the expense of accuracy and adaptations to the Company's actual operations.

Finanstilsynet points out that the group perspective may cause entity-specific risks to be given lower priority in both reports and action plans as they are considered to be, and may in fact also be, of little significance in a group perspective. Finanstilsynet points out that an organisational structure based on shared documents and forums at Nordic level requires that the Company's management and Board of Directors take special care to ensure that these are commensurate with the company's actual operations and that they identify, manage and document the particular risks to which the Company is exposed. This is especially important as the Company, in contrast to the group's other Nordic trading venues, is a pure commodity derivatives exchange.

In Finanstilsynet's opinion, the Board of Directors has not taken adequate steps to ensure documented local adaptations of adopted plans, policies, guidelines, procedures and reports that are needed to ensure that internal controls can be carried out and documented in a proper manner. Finanstilsynet assumes that an external member on the Company's Board of Directors may help to ensure that the circumstances that are specific to the Company receive greater attention.

In Finanstilsynet's opinion, the Company's allocation of resources between the Company and the Norwegian branch of Nasdaq Clearing has not been properly thought through and formalised. Finanstilsynet finds that the operations of the two companies have to a large degree been commingled, potentially resulting in a blurred division of responsibilities and unclear reporting lines, as well as failure to handle possible conflicts of interest between the two companies. This may also result in a lack of awareness of the circumstances that are specific to the Company.

Finanstilsynet agrees that the Company has no independent responsibility for monitoring the position limits set by Finanstilsynet. In Finanstilsynet's opinion, however, the Company's approach of not carrying out any controls until it sets limits itself is not in compliance with the position management requirements set out in MiFID II (now the Securities Trading Act).

The Company must ensure that exchange members are at all times fit to engage in trading and meet the membership terms and conditions. This assessment differs from the assessment to be made by a central counterparty when admitting and following up clearing members, setting margin requirements and monitoring clearing members' financial ability to meet relevant terms and

conditions in relation to the central counterparty at all times. Although the Company's failure to periodically review members' fitness to engage in trading on the stock exchange has had no bearing on the default that occurred at Nasdaq Clearing, Finanstilsynet is nevertheless critical of the Company's failure to carry out an independent assessment or check of whether members meet the membership terms and conditions on an ongoing basis, beyond general market surveillance. Finanstilsynet censures the Company for depending too heavily on the monitoring carried out by Nasdaq Clearing, whose objective differs from that of the Company. The Company should, among other things, monitor the placing of orders and entry into trades etc. Finanstilsynet is also critical of the fact that the follow-up of members has primarily been event-based rather than systematic and risk-based and geared to the various members.

Finanstilsynet has revealed that [REDACTED] in addition to being deputies for Einar Aas, also entered into trades on Nasdaq Oslo through Einar Aas' membership. This was apparently done as part of what is stated to be the management of a [REDACTED] portfolio. In Finanstilsynet's opinion, the Company's investigations and follow-up of these circumstances have been inadequate in light of their bearing on reporting requirements, market surveillance and compliance with regulations, as well as the Company's follow-up of the stock exchange member. Finanstilsynet is also critical of the fact that the Company has not informed the supervisory authority on its own initiative.

The Company must, by 1 March 2019, send Finanstilsynet a report on the corrective measures the Company is implementing on the basis of Finanstilsynet's report.