

January 15, 2020

Ref No. 385248 00020 CHJ:sh

VIA E-MAIL AND FEDERAL EXPRESS

Mr. Brett Redfearn
Director
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-7010
United States of America

Re: Intent of Nasdaq Stockholm AB to Rely on No-Action Relief for Foreign Options Markets and Their Members That Engage in Familiarization Activities

Dear Mr. Redfearn:

At the request of our client, Nasdaq Stockholm AB ("Nasdaq"), we are writing to provide you with a notification of Nasdaq's intent to rely on the class no-action relief issued by the Securities and Exchange Commission's ("SEC" or "Commission") Division of Trading and Markets ("Division") for foreign options markets and their members that engage in familiarization activities with certain U.S.-based persons.¹

BACKGROUND

In the Class Relief, the Division took a no-action position under which a Foreign Options Market², its Representatives³ and the Foreign Options Market's members, could engage in

¹ See LIFFE A&M and Class Relief, SEC No-Action Letter (Jul. 1, 2013) ("Class Relief"). Capitalized terms used herein and not otherwise defined have the meanings given in the Class Relief. Pursuant to the Class Relief, a Foreign Options Market is not required to apply de novo for similar no-action or other relief; it can file with the Division a notice of intent to rely on the Class Relief.

² The Class Relief defines a Foreign Options Market as a "non-U.S. derivatives market: (i) on which Eligible Options trade; and (ii) that is an organized exchange operated and regulated outside the United States." KRX qualifies as a Foreign Options Market. An Eligible Option is defined in the Class Relief to mean "an index option or option on an individual security traded on a foreign options market that is not fungible or interchangeable with options traded on any market other than the foreign options market, and, accordingly, each position in an eligible option issued by a clearing member of the foreign options market can be closed out only on the foreign options market."

³ The Class Relief defines a "Representative" as "an employee of the Foreign Options Market located inside or outside the United States who has been appointed to act as representative of the Foreign Options Market and may undertake the activities described in Section II [of the Class Relief] with respect to Eligible Broker-Dealers/Eligible Institutions [as defined below]."

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activities to familiarize Eligible Broker-Dealers/Eligible Institutions⁴ regarding the Foreign Options Market and Eligible Options available on that market without the Division recommending enforcement to the Commission under Sections 5, 6, 15, or 17A of the Securities Exchange Act of 1934 ("Exchange Act"). Under the terms of the Class Relief, a Foreign Options Market that does not already have no-action relief from the Division, such as Nasdaq, may rely on the Class Relief to engage in familiarization activities if it notifies the Director of the Division of its intent to do so.

More specifically, in order to make use of the Class Relief, a Foreign Options Market must send a letter, signed either by the Foreign Options Market's chief legal officer or the Foreign Options Market's U.S. counsel, to the Director of the Division that:

- Identifies the Foreign Options Market;
- Describes the Eligible Options for which the Foreign Options Market, its personnel, and its members seek to engage in familiarization activities with Eligible Broker-Dealers/Eligible Institutions; and
- Makes the following representations:
 - The parties will provide Commission staff promptly upon request a list of the specific equity and index options covered by the request for relief and will identify a primary listing market for each underlying equity security and index component;
 - The requesting entities have taken steps to comply with, and assure continued compliance with, each of the representations and conditions contained in the Class Relief and acknowledge that the Class Relief is only available to the requesting entities to the extent they are in compliance with each of the representations and conditions contained in the Class Relief; and
 - All subject entities covered by the Class Relief will comply with each of the representations and conditions contained in the Class Relief, including the restriction on securities of U.S. issuers.

⁴ An "Eligible Broker-Dealer/Eligible Institution" (and, individually, an "Eligible Broker-Dealer" or "Eligible Institution") is any entity that meets the following standards: (a) it must be a "qualified institutional buyer" as defined in Rule 144A(a)(1) under the Securities Act of 1933 ("Securities Act"), or an international organization excluded from the definition of "U.S. person" in Rule 902(k)(2)(vi) of Regulation S under the Securities Act; and (b) it must have had prior actual experience with traded options in the U.S. options market (and, therefore, would have received the disclosure document for U.S. standardized options called for by Rule 9b-1 under the Exchange Act).

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DESCRIPTION OF NASDAQ

Nasdaq Stockholm AB is an entity organized under the laws of Sweden. The company holds a license as a regulated market and as a multi-lateral trading facility (“MTF”) under the Swedish Securities Market Act, transposing the revised Markets in Financial Instruments Directive (“MiFID II”) into Swedish law. The company operates Nasdaq Derivatives Markets (also the brand name), which is essentially a MiFID regulated market for trading in equity, index and fixed income derivatives.

DESCRIPTION OF ELIGIBLE OPTIONS

The Eligible Options that are the subject of this notification are options that Nasdaq Stockholm offers or may in the future offer on (1) individual stocks that are listed and traded on Nasdaq Stockholm, Nasdaq Copenhagen or Nasdaq Helsinki, (2) exchange traded funds (“ETFs”), and (3) various equity indices, such as the OMX Copenhagen 25 index (“OMXC25”). The eligible options are not fungible or interchangeable with options traded on any market other than Nasdaq Stockholm. In addition, each position in an eligible option on Nasdaq Stockholm can be closed out only on Nasdaq Stockholm and is cleared by Nasdaq Clearing AB.

The Eligible Options that are the subject of this notification will not include the OMX Stockholm 30 index (“OMXS30”). The OMX 30 includes a Swedish Depository Receipt (“SDR”) representing common shares of Autoliv, Inc. (“Autoliv”), which has its primary listing on the New York Stock Exchange (“NYSE”) and is therefore a U.S. issuer. An index that includes any securities of U.S. issuers, such as Autoliv, do not qualify for the no-action relief provided under the Foreign Market Letters or the Class Relief.

Additionally, the Eligible Options that are the subject of this notification will not include single stock options on Norwegian companies listed on Oslo Børs or the OMX Oslo 20 index (“OMX020”) which is an index comprised of 20 shares listed on Oslo Børs.

CLASS RELIEF AND REPRESENTATIONS

In order to be able to rely on the Class Relief, Nasdaq makes the following representations:

- Nasdaq will provide Commission staff promptly upon request with a list of the specific equity and index options covered by the request for relief and will identify a primary listing market for each underlying equity security and index component;
- Nasdaq has taken steps to comply with, and assure continued compliance by Nasdaq, its Representatives and its members with, each of the representations and conditions contained in the Class Relief and acknowledges that the Class Relief is only available to the extent that Nasdaq, its personnel and its members are in compliance with each of the representations and conditions contained in the Class Relief; and

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- All subject entities covered by the Class Relief will comply with each of the representations and conditions contained in the Class Relief, including the restriction on securities of U.S. issuers.

Pursuant to the Class Relief, Nasdaq further represents that:

- Nasdaq is, and shall remain to be, an organized exchange operated and regulated outside of the United States (*i.e.*, in Sweden);
- Nasdaq does not engage in any general solicitation or general advertisements concerning Eligible Options in the United States;
- Nasdaq does not provide direct electronic access for Eligible Options trading to persons located in the United States (including through any OTC Options Processing Service⁵ offered by Nasdaq);
- Nasdaq maintains on its website current information, in English, concerning its trading rules, clearance and settlement procedures, hours of operation, holidays, and other material information that would be relevant to an Eligible Broker-Dealer/Eligible Institution trading on Nasdaq;
- With respect to the Eligible Options it intends to offer and sell in the United States, Nasdaq has in place a market-to-market surveillance sharing agreement with the primary market for the underlying securities or other surveillance sharing arrangement (*e.g.*, an information sharing agreement between the respective regulatory authorities of Nasdaq and the market for the underlying security) through which Nasdaq would be able to obtain information concerning trading in the underlying securities;
- Nasdaq is supervised by *Finansinspektionen* (The Swedish Financial Supervisory Authority), which is a signatory to the International Organization of Securities Commission's ("IOSCO") Multilateral Memorandum of Understanding for Consultation Cooperation and the Exchange of Information;⁶
- Members or participants of Nasdaq are obligated to provide information to or otherwise assist Nasdaq in relation to activities carried out on the exchange, and Nasdaq is able

⁵ The Class Relief defines an OTC Options Processing Service to mean a mechanism for submitting to a Foreign Options Market an options contract on a foreign security that has been negotiated and completed in an over-the-counter ("OTC") transaction so that the Foreign Options Market may replace the OTC contract with an equivalent exchange-traded options contract.

⁶ IOSCO, Signatories to the Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of information, available at: <https://www.iosco.org/about/?subSection=mmou&subSectionI>.

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to provide, and would provide, information obtained from a member or participant to the Commission upon request;⁷

- Nasdaq advises its members that, under U.S. law, members of Nasdaq that are not registered broker-dealers may deal with Eligible Institutions only in accordance with Rule 15a-6 under the Exchange Act, principally through U.S. registered broker-dealers, as provided in Rule 15a-6;
- Nasdaq institutes rules requiring its members, before effecting a transaction in Eligible Options with an Eligible Broker-Dealer/Eligible Institution, to obtain, and maintain from such Eligible Broker-Dealer/Eligible Institution, signed by an appropriate officer, a record of the representations set forth in Section B of the Class Relief;
- Nasdaq advises its members that any options on securities of U.S. issuers, or on an index that includes any securities of U.S. issuers, that are traded on Nasdaq are not available for sale to U.S. persons; and
- Nasdaq adopts written policies and procedures to monitor for and assure compliance with the terms of the Class Relief, and will make such policies and procedures available in English promptly to the Commission staff upon request.

* * * * *

We would be pleased to answer any questions that you or the Staff might have with regards to this notification of Nasdaq's intention to rely on the Class Relief. Please feel free to contact me at + 44 207 776 7625 or at carolyn.jackson@katten.co.uk.

Sincerely,



Carolyn H. Jackson

cc. Mr. Richard Holley III, Assistant Director - U.S. Securities and Exchange Commission

⁷ Foreign broker-dealers electing to deal with U.S. institutional investors pursuant to Rule 15a-6(a)(3) under the Exchange Act are required to provide directly to the Commission upon request or pursuant to agreements reached between any foreign securities authority and the Commission, information, documents, testimony, and assistance in taking the evidence of persons that relate to transactions pursuant to Rule 15a-6(a)(3) under the Exchange Act.