



May 9, 2019

Via CFTC Portal Submissions

Mr. Christopher Kirkpatrick
Secretary of the Commission
Office of the Secretariat
Commodity Futures Trading Commission
3 Lafayette Centre
1155 21st Street, N.W.
Washington D.C. 20581

RE: Rule Certification: Nadex Waives Trading and Settlement Fees for Market Makers Quoting Touch Brackets – Submission Pursuant to Commission Regulation §40.6(a)

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (the “Act”), and §40.6(a) of the regulations promulgated by the Commodity Futures Trading Commission (the “Commission”) under the Act, North American Derivatives Exchange, Inc. (“Nadex”) hereby submits to the Commission its intent to offer a waiver on Market Maker trading and settlement fees for its Touch Bracket contracts (the “Market Maker Touch Bracket Waiver”, or the “Waiver”). The Waiver is a temporary offer to incentivize its Market Makers to take on the obligation to quote markets in Nadex’s newly launched Touch Bracket contracts in order to provide a better experience to Nadex’s market participants in these products. The Waiver will only apply to Nadex’s contracted Market Makers who are obligated to quote the Touch Bracket contracts, and only to the fees incurred from quoting the Touch Bracket contracts. The Waiver will apply to fees incurred from May 1, 2019 through October 31, 2019, after which Market Makers will be charged \$0.50 per contract per side (or the prevailing rate as indicated in the Fee Schedule at the end of the Waiver period) for each Touch Bracket trade executed on Nadex, and \$0.50 per contract per side (or the prevailing rate as indicated in the Fee Schedule at the end of the Waiver period) for each Touch Bracket contract that settles in-the-money, in accordance with the Fee Schedule. The Waiver will take place in the form of a rebate credit to the Market Makers’ account, applied to the account in the month following the month the fees are incurred. It is anticipated that the Waiver will continue to be rebated for the duration of the program, but may at some point be applied in real-time.

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DCM Core Principles

Nadex has identified the following Designated Contract Market (“DCM”) Core Principles as potentially being impacted by the Market Maker Touch Bracket Waiver: Core Principle 2 (Compliance with Rules), Core Principle 7 (Availability of General Information).

Core Principle 2 (Compliance with Rules), implemented by Commission Regulation 38.151 (Access Requirements) requires a DCM provide impartial access to its markets to any of its members or market participants, including comparable fee structures for members and persons with trading privileges. In its proposed amendments to Part 38 of the Commission’s Regulations, Commission staff noted that a DCM “may establish different categories of market participants, but may not discriminate within a particular category. Fee structures may differ among categories if such fee structures are reasonably related to the cost of providing access or services to a particular category.”¹ Nadex’s contracted Market Makers are a specific category of market participant, and the Market Maker Touch Bracket Waiver will apply to any Market Maker that has agreed with Nadex to quote markets in the new Touch Brackets. Accordingly, the amendments discussed herein will not negatively impact Nadex’s ability to comply with this Core Principle.

Core Principle 7, implemented by Commission Regulations 38.400 and 38.401, requires a DCM to make its Rules, including material terms of its market maker program, available on its website. Notice of the temporary Market Maker Touch Bracket Waiver will be posted on the Nadex Notices page, and therefore, will not negatively impact Nadex’s ability to comply with this Core Principle.

DCO Core Principles

Nadex has identified the following Derivatives Clearing Organization (“DCO”) Core Principle as potentially being impacted by the amendments discussed herein: Core Principle L (Public Information).

Core Principle L (Public Information), implemented by Commission Regulation 39.21, requires a DCO to publicly disclose fees charged to its members. As previously indicated, notice of the temporary Market Maker Touch Bracket Waiver will be posted on the Nadex Notices page, and will not negatively impact Nadex’s ability to comply with this Core Principle.

Pursuant to the 10-day filing period under Regulation 40.6(a)(3), this submission will become effective May 24, 2019. The Waiver for May 2019 will be credited in June 2019.

No substantive opposing views were expressed to Nadex with respect to these amendments.

¹ 75 Fed. Reg. 80579 (Dec. 22, 2010).

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Nadex hereby certifies that the amendments contained herein comply with the Act, as amended, and the Commission Regulations adopted thereunder.

Nadex certifies that a copy of these amendments was posted on its website at the time of this filing.

Should you have any questions regarding the above, please do not hesitate to contact me by telephone at (312) 884-0927 or by email at Jaime.walsh@nadex.com.

Sincerely,



Jaime Walsh
Legal Counsel

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