**Rule Self-Certification**

May 11, 2018

Christopher J. Kirkpatrick

Office of the Secretariat

Commodity Futures Trading Commission

Three Lafayette Center

1155 21st Street, NW

Washington, DC 20581

Re: **Rule 40.6 Certification**

**Commission Regulation 1.3 Conforming Changes**

**Reference File: SR-NFX-2018-27**

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”) and section 40.6 of the Commission’s rules thereunder, Nasdaq Futures, Inc. (“NFX” or “Exchange”) is amending NFX Rulebook to update certain references to Commission rules.

On February 23, 2018 the Commission published an Interim Final Rule amending Commission Regulation 1.3 to remove the specific lettering structure for the definitions contained in that Regulation.[[1]](#footnote-1) NFX is now amending its rules to reflect the Commission’s replacement of specific lettered paragraphs of Regulation 1.3 with general references to Regulation 1.3.

The text of the rule amendments is set forth below. Deleted language is crossed out:

### *Chapter I Definitions and Governance of the Exchange*

#### ***Section 1 Definitions***

*Unless otherwise specifically provided in the By-Laws or Rules of the Exchange or the context otherwise requires, the terms defined herein shall for all purposes of the By-Laws and Rules of the Exchange, have the meanings therein specified.*

***\* \* \* \* \****

***Customer****. The term "Customer" has the meaning attributed to it by Commission Regulation 1.3~~(k)~~.*

***\* \* \* \* \****

***Public Director****. The term "Public Director" means an individual who has been found by the Board of Directors to have no material relationship with the Exchange. A "material relationship" is one that reasonably could affect the independent judgment or decision making of the director. A director shall be considered to have a "material relationship" with the Exchange if any of the following circumstances exist: (A) the director is an officer or employee of the Exchange or an officer or employee of its affiliate; ("Affiliate" includes parents or subsidiaries of the Exchange or entities that share a common parent with the Exchange); (B) the director is a member of the Exchange, or an officer or director of a member ("Member" being defined according to Section 1a(24) of the Act and Commission Regulation 1.3~~(q)~~); (C) the director, or a firm with which the director is an officer, director or partner, receives more than $100,000 in combined annual payments from the Exchange, or any affiliate of the Exchange, (as defined herein), for legal, accounting, or consulting services. Compensation for services as a director of the Exchange or as a director of an affiliate of the Exchange does not count toward the $100,000 payment limit, nor does deferred compensation for services prior to becoming a director, so long as such compensation is in no way contingent, conditioned, or revocable; and (D) any of the relationships herein apply to a member of the director's "immediate family," i.e., spouse, parents, children, and siblings. All of the disqualifying circumstances described herein are subject to a one-year look back. Public Directors may also serve as directors of the Exchange's affiliate as defined herein if they otherwise meet the definition of public.*

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***Chapter II Membership Rules***

***Section 1 Qualification and Participation of Futures Participants***

*(a) No change.*

*(b) Notwithstanding the provisions of Section 3 of this Chapter, the Exchange requires compliance with the following:*

*(i) – (ii) No change.*

*(iii) Participation in the Exchange as a Futures Participant requires a permit. The issuance by the Exchange of such permit shall be conditioned upon the Futures Participant's initial and continuing compliance with the following requirements:*

*(1) No change.*

*(2) maintenance of a clearing account with a Clearing Futures Participant, or maintenance of a clearing account directly with the Clearing Corporation; notwithstanding the foregoing, futures commission merchants, as defined in Commission Regulation §1.3~~(p)~~, must maintain a clearing account directly with the Clearing Corporation.*

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***Chapter V Trading Procedures and Standards***

***\* \* \* \* \****

***Section 9 Customer Margin***

*(a) – (c) No change.*

*(d) Account Administration, Classification, and Aggregation:*

*(1) No change.*

*(2) Bona Fide Hedge Accounts: For bona fide hedging transactions and positions as defined by Commission regulation 1.3~~(z)(1)~~, a Futures Participant may impose maintenance margin rates for the transactions and positions and need not impose the initial margin rates if the Futures Participant has a reasonable basis to believe, and the Customer represents in writing that, the transactions or positions are for bona fide hedging.*

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***Section 13 Position Limits and Position Accountability***

*(a) – (b) No change.*

*(c)* ***Exemptions****. On the basis of an application to the Exchange in accordance with Section (d) below, and such supplemental information as the Exchange may request, the Exchange will determine whether to grant a position limit exemption for one or more bona fide hedge transactions, risk management transactions, or arbitrage and spread transactions.*

*(i) Bona Fide Hedging Positions. The Exchange may grant exemptions from position limits for bona fide hedge positions as defined by CFTC Regulation §1.3~~(z)(1)~~. Approved bona fide hedgers may be exempted from emergency orders that reduce position limits or restrict trading.*

*\* \* \* \* \**

*(d)* ***Application for Exemption****.*

*(i) A Person seeking an exemption from position limits must apply to the Exchange by submitting a completed NFX Position Limit Exemption Application which provides a description of the exemption sought (including whether the exemption is for bona fide hedging positions as defined in CFTC Regulation §1.3~~(z)(1)~~), risk management positions or arbitrage/spread positions, as well as a complete and accurate explanation of the underlying exposure related to the exemption request. The applicant must also agree to promptly provide, upon request by the Exchange, information or documentation regarding the Person's financial condition and agree to comply with all terms, conditions or limitations imposed by the Exchange with respect to the exemption as well as with all Exchange rules. The applicant must agree to initiate and liquidate positions in an orderly manner if directed to do so by the Exchange, and also agree to notify the Exchange whenever there is a material change to the information provided in the most recent application, explaining such change in detail.*

\* \* \* \* \*

The Exchange intends to implement the amendments on June 5, 2018 for trade date June 6, 2018. The amended rulebook will be publicly available on the NFX website, in compliance with Core Principle 7. There were no opposing views among NFX’s Board of Directors, members or market participants.

The Exchange certifies that the amendments comply with the Commodity Exchange Act and the Commission’s regulations thereunder. The Exchange also certifies that notice of pending certification and a copy of this submission have been concurrently posted on the Exchange’s website at <http://business.nasdaq.com/nasdaq-futures/nfx-market>.

If you require any additional information regarding the submission, please contact Carla Behnfeldt at (215) 496-5208 or via e-mail at carla.behnfeldt@nasdaq.com. Please reference SR-NFX-2018-27 in any related correspondence.



Regards,

Daniel R. Carrigan

President

1. 83 FR 7979 (February 23, 2018). [↑](#footnote-ref-1)