



## Rule Self-Certification

June 2, 2015

### VIA ELECTRONIC PORTAL

Christopher J. Kirkpatrick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Center  
1155 21<sup>st</sup> Street, N.W.  
Washington, DC 20581

Re: **Regulation §40.6 Submission Certification**  
**Error Trade Reference Guide**  
**Reference File: SR-NFX-2015-37**

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Section 40.6(a) of the regulations promulgated by the Commodity Futures Trading Commission under the Act, NASDAQ Futures, Inc. (“NFX” or “Exchange”) adopts a new Error Trade Reference Guide. The new Reference Guide will be implemented on June 17, 2015. The text of this Reference Guide is set forth in Exhibit B. Current Appendix C guidance, entitled “Error Trade Policy” is being deleted and is superseded by the Error Trade Reference Guide. The deleted Error Trade Policy guidance is set forth in Exhibit A.

The Exchange is adopting this Error Trade Reference Guide to provide further guidance to market participants with respect to erroneously executed transactions. This Reference Guide will be posted on the Exchange’s website to provide market participants additional information on the Exchange’s policy on errors. This Reference Guide will supersede current Appendix C, entitled “Error Trade Policy” which is being deleted.

With respect to the designated contract market core principles (“Core Principles”) as set forth in the Act:

- *Compliance with Rules:* Today the Exchange has in place Rules which describe the manner in which Futures Participants may access and trade on NFX. Chapter II, Section I provides for the qualifications and rules of participation applicable to Futures Participants as well as Authorized Traders. Chapter V, Section 18

describes prohibited activities with respect to the Trading System. Trading is subject to the Rules at Chapter III of the Exchange's Rulebook, which include prohibitions against fraudulent, noncompetitive, unfair and abusive practices. Additionally, trading is subject to the trading procedures and standards in Chapter V of the Rulebook. The Exchange's disciplinary Rules are contained in Chapter VI of the Rulebook.

- *Prevention of Market Disruption:* The Exchange's Regulatory Department, which handles real-time surveillance, monitors trading activity on the Exchange with a SMARTS Surveillance Application through which the Exchange can track activity of specific Authorized Traders, monitor price and volume information and receive alerts regarding market messages. The Exchange's Regulatory Department, which handles real-time surveillance in conjunction with staff that handles T+1 surveillance, utilizes data collected by the SMARTS Surveillance Application to monitor price movements, as well as market conditions and volumes to detect suspicious activity such as manipulation, disruptive trading and other abnormal market activity.
- *Availability of Contract Information.* The Exchange has indicated within its trading Rules where specific information relates to a particular Contract. The Exchange will post the terms and conditions of Exchange Contracts in its Rulebook along with trading Rules.
- *Publication of Information.* The Exchange will publish daily information on settlement prices, volume, open interest and opening and closing ranges for actively traded Contracts on its website. The Exchange's volume information will include information on the volume of Block Trades.
- *Execution of Transactions.* The Exchange operates an electronic trading facility that provides Futures Participants with the ability to execute Orders within the Exchange's Order Book and offers within a predetermined automated trade matching and execution algorithm. Orders submitted into the Trading System will continue to be matched in either Price-Time priority or Size Pro-Rata priority order, as specified by the Exchange. The Exchange specifies the types of Orders that will be accepted by the Trading System in recently filed Chapter IV, Section 4.
- *Protection of market participants.* Chapter III of the Exchange's Rulebook contains prohibitions precluding intermediaries from disadvantaging their customers. These rules apply to trading in all Contracts.

There were no opposing views among the Exchange's Board of Directors, members or market participants. The Exchange hereby certifies that this Error Trade Reference Guide complies with the Commodity Exchange Act and regulations thereunder. The Exchange also certifies that a notice of pending certification with the Commission and a copy of this submission have been concurrently posted on the Exchange's website at [www.nasdaqomx.com/nasdaq-futures](http://www.nasdaqomx.com/nasdaq-futures).

If you require any additional information regarding the submission, please contact Angela S. Dunn at +1 215 496 5692 or via e-mail at [angela.dunn@nasdaq.com](mailto:angela.dunn@nasdaq.com). Please reference SR-NFX-2015-37 in any related correspondence.

Regards,

A handwritten signature in black ink that reads "Daniel R. Carrigan". The signature is written in a cursive style with a large, prominent "D" and "C".

Daniel R. Carrigan  
President

cc: National Futures Association  
The Options Clearing Corporation

## Exhibit A

### ~~Appendix C – Error Trade Policy~~

~~The Exchange’s error trade policy is designed to preserve the integrity of Contracts transacted on the Exchange by striking an appropriate balance between trade certainty and erroneous price discovery. The policy provides a mechanism to promptly address transactions that are executed at obviously erroneous prices substantially inconsistent with the last trade price of the contract or alternative determination of the contract’s fair value. This policy does not relieve market participants from potential financial responsibility or liability for the execution of trades that are deemed or asserted to be an “error trade” if their actions caused financial loss to other parties.~~

~~Any request by a Futures Participant or Authorized Trader to invoke the error trade policy with respect to any trade must be made to NASDAQ MarketWatch as soon as possible. Additionally, an employee of the Exchange can bring a potential error trade to NASDAQ MarketWatch’s attention. NASDAQ MarketWatch may provide assistance only to a Futures Participant or Authorized Trader. In all cases, if a potential error trade is not brought to NASDAQ MarketWatch’s attention within ten minutes after the relevant trade occurred, such trade will stand. The Exchange has the authority, but not the obligation, to review a trade after its execution if it determines that the trade price was egregiously out of line with fair value.~~

~~When a potential error trade is brought to NASDAQ MarketWatch’s attention, NASDAQ MarketWatch will determine whether the trade price is in the “non-reviewable range” for the relevant contract, as set forth in the Rules governing such Contract. In determining whether the trade price is within the “non-reviewable range,” NASDAQ MarketWatch will determine what the true market price for the relevant Contract was immediately before the potential error trade occurred. In making such determination, NASDAQ MarketWatch may consider all relevant factors, including the last trade price for such Contract, a better bid or offer price, a more recent price in a different contract month or series and the prices of related contracts trading on the Exchange or other markets.~~

### ~~Trade within the “non-reviewable range”~~

~~If NASDAQ MarketWatch determines that the trade price of a potential error trade was inside the “non-reviewable range” for the relevant Contract, such trade will~~

~~stand and no further action will be taken. Trades executed within the non-reviewable range will not be cancelled or adjusted. Additionally, any trade where the only error is the number of contracts traded and not the price at which they traded will not be subject to cancellation.~~

~~If both parties to an error trade agree, they may transfer the position resulting from such trade between each other. Any such transfer must be made at the original trade price and for the same quantity as the original trade. The parties may also, but are not required to, provide for a cash adjustment to compensate one side of such error trade. Any such transfer must be reported to the Exchange in the manner from time to time prescribed by the Exchange. If the parties to an error do not agree to transfer the position resulting from such trade, then the party causing such trade may file an arbitration claim against the Futures Participant representing the other side.~~

**Trade outside the “non-reviewable range”**

~~When determining whether to cancel or adjust a transaction the Exchange may consider one or more of the following factors: (1) the price movements in other Contract months of the same Contract; (2) the current market conditions, including levels of activity and volatility; (3) the last trade price for the Contract; (4) information regarding price movements in related markets, the release of economic data, or other relevant news immediately before or during the trading session; (5) an obvious error; (6) the proximity of the trade to the close of the market; (7) the impact of the error transaction on other transactions; and (8) any other factor which the Exchange, in its sole discretion, may deem relevant.~~

**Cancels and adjustments by mutual agreement**

~~If both parties agree to cancel or adjust a transaction, Market Operations shall send a message to the market participants and an alert to the quote vendor network indicating that the trade was cancelled or adjusted. Trade certainty and the timely resolution of asserted error trades are critical objectives of this policy. Therefore, if parties to a disputed transaction do not agree to the terms of resolution, Market Operations reserves the final authority to determine the disposition of the questioned transaction.~~

**Decision and notification**

~~The Exchange will make the final decision on whether a trade price is cancelled or adjusted. The Exchange will notify all Futures Participants as soon as practicable (through means deemed appropriate by the Exchange) of (1) trades that the Exchange is investigating pursuant to this Rule and (2) trades that the Exchange has cancelled or adjusted pursuant to this Rule. Parties to transactions are permitted to make cash adjustments to settle losses that occur as a result of an asserted error trade or an actual error trade. Should parties to a disputed transaction be unable to mutually resolve financial disputes arising from such transactions, arbitration is available as provides in Chapter VII of the Rules.~~

### **Procedures for Correcting Error Trades**

If a trade is cancelled or adjusted, either by agreement of the parties thereto or by Exchange staff, NASDAQ MarketWatch will cancel such trade. The error trade price and any invalid price quotes due to an error trade that is cancelled will be removed from the Exchange's official record of time and sales. Further, in the event a trade is cancelled or adjusted, the parties to the transaction must reverse the transaction through applicable Clearing Futures Participant procedures. Market Operations will notify Regulatory staff regarding any situation where a party fails to claim or misclear trades in a timely manner. Such failure may be deemed an act detrimental to the interest or welfare of the Exchange. Under no circumstances shall the parties to an asserted error trade be permitted to reverse the error by entering into a pre-arranged offsetting transaction; *provided* that the parties may engage in pre-execution discussions with each other in accordance with procedures established by the Exchange from time to time. If the asserted error trade is determined not to be an actual error trade, the parties to the trade are permitted to mutually agree upon a cash adjustment or to arbitrate the matter. Any cash adjustment must be reported to Market Operations.

### **Contingency Orders Triggered by Error Trade**

If an error trade cancelled, either by agreement of the parties thereto or by Exchange staff, NASDAQ MarketWatch will also (a) cancel all trades that were triggered as a result of contingency Orders being triggered by such trade and (b) cancel all bids and offers that were entered into the Trading System as a result of contingency Orders being triggered by such trade. NASDAQ MarketWatch will notify the Futures Participants responsible for the trades so cancelled and the bids or offers so cancelled so that the original Orders can be re-entered into the Trading System.

### **Voluntary Adjustment of Trade Price**

When an error trade outside of the "non-reviewable range" for the relevant Contract is cancelled in accordance with the above procedures, the parties to such trade may agree voluntarily to keep such trade but to adjust its price, provided all of the following conditions are met:

1. The quantity of the position being transferred must be identical to the quantity of the error trade that was cancelled.
2. In the case of an error trade below the true market price for the relevant Contract, the adjusted price must be the lowest price at which such Contract traded at or about the time of the error trade without such trades being cancelled. In the case of an error trade above the true market price for the relevant Contract, the adjusted price must be the highest price at which such Contract traded at or about the time of the error trade without such trades being cancelled.
3. The parties to any adjusted trade must report such trade to the Clearing Corporation not later than by the close of business on the Business Day immediately succeeding the day on which such error trade occurred. Any such

~~adjusted trade must also be reported to the Exchange on a form approved by the Exchange.~~

~~**Cancelling Trades When Futures Participant is on Both Sides of the Trade**~~

~~Notwithstanding any other provision of this policy, NASDAQ MarketWatch is authorized to cancel any trade regardless of the price range in which the trade occurs if (i) the trade resulted from the matching of a Futures Participant's bid, offer, or Order for the Futures Participant's own account with another bid or offer of that Futures Participant or another Order for that Futures Participant's own account and (ii) the Futures Participant brings the relevant trade to NASDAQ MarketWatch's attention within ten minutes after the relevant trade occurred.~~

~~**Cancelling or Adjusting Trades Not Correctly Processed Due to System Malfunction** NASDAQ MarketWatch is authorized to cancel or adjust any trade that is not correctly processed by the Trading System due to a system malfunction.~~

~~**Submission of Error Requests**~~

~~Requests may be submitted by utilizing the online submission form located at <https://www.nasdaqtrader.com/EASP/MicroEASP.aspx?id=ETForm>~~

**Exhibit B**



# NASDAQ Futures, Inc. (NFX) ERROR TRADE REFERENCE GUIDE

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Version 1.00 | 2015-06-17

## **CONFIDENTIALITY/DISCLAIMER**

This Reference Guide is being forwarded to you strictly for informational purposes and solely for the purpose of developing or operating systems for your use that interact with systems of NASDAQ Futures, Inc. (NFX<sup>SM</sup>) and its affiliates (collectively, NFX). This specification is proprietary to NFX.

NFX reserves the right to withdraw, modify, or replace this Reference Guide at any time, without prior notice. No obligation is made by NFX regarding the level, scope or timing of NFX's implementation of the functions or features discussed in this specification. The Reference Guide is provided "AS IS," "WITH ALL FAULTS". NFX makes no warranties to this Reference Guide or its accuracy, and disclaims all warranties, whether express, implied, or statutory related to the Reference Guide or its accuracy. This document is not intended to represent an offer of any terms by NFX. While reasonable care has been taken to ensure that the details contained herein are true and not misleading at the time of publication, no liability whatsoever is assumed by NFX for any incompleteness or inaccuracies. By using this Reference Guide you agree that you will not, without prior written permission from NFX, copy or reproduce the information in this Reference Guide except for the purposes noted above. You further agree that you will not, without prior written permission from NFX, store the information contained in this Reference Guide in a retrieval system, or transmit it in any form or by any means, whether electronic, mechanical, or otherwise except for the purposes noted above. In addition you agree that you will not, without prior written permission from NFX, permit access to the information contained herein except to those with a need-to-know for the purposes noted above.

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## INTRODUCTION

This Error Trade Reference Guide is designed to preserve the integrity of Contracts transacted on the Exchange by striking an appropriate balance between trade certainty and erroneous price discovery. This guide provides a mechanism to promptly address transactions that are executed at obviously erroneous prices substantially inconsistent with the last trade price of the contract or alternative determination of the contract's fair value. This guidance is not intended and does not relieve market participants from potential financial responsibility or liability for the execution of trades that are deemed or asserted to be an "error trade" if their actions caused financial loss to other parties.

## 1 NFX CONTACT INFORMATION

Contact	Phone
Nasdaq MarketWatch	+1 (844) 744-3721

## 2 TRADES WITHIN NON-REVIEWABLE RANGE

If NASDAQ MarketWatch determines that the trade price of a potential error trade was inside the "non-reviewable range" for the relevant Contract, such trade will stand and no further action will be taken. Trades executed within the non-reviewable range will not be cancelled. Additionally, any trade where the only error is the number of contracts traded, and not the price at which they traded, will not be subject to cancellation.

If both parties to an error trade agree, they may transfer the position resulting from such trade between each other. Any such transfer must be made at the original trade price and for the same quantity as the original trade. The parties may also, but are not required to, provide for a cash adjustment to compensate one side of such error trade. Any such transfer must be reported to the Exchange in the manner from time to time prescribed by the Exchange. If the parties to an error do not agree to transfer the position resulting from such trade, then the party causing such trade may file an arbitration claim in accordance with Chapter VII (Arbitration) of the NFX Rules.

See NFX Rules at Chapter V, Section 5, Transaction, Cancellations and Adjustments and relevant Contract Specifications in the Rulebook.

## 3 TRADES OUTSIDE THE NON-REVIEWABLE RANGE

When determining whether to cancel a transaction the Exchange may consider one or more of the following factors: (1) the price movements in other Contract months of the same Contract; (2) the current market conditions, including levels of activity and volatility; (3) the last trade price for the Contract; (4) information regarding price movements in related markets, the release of economic data, or other relevant news immediately before or during the trading session; (5) an obvious error; (6) the proximity of the trade to the close of the market; (7) the impact of the error transaction on other transactions; and (8) any other factor which the Exchange, in its sole discretion, may deem relevant.

## **4 NOTIFICATION OF ERROR**

Any request by a Futures Participant, Authorized Customer or Authorized Trader to invoke the error trade policy with respect to any trade must be made to NASDAQ MarketWatch as soon as possible after execution. The Exchange considers ten (10) minutes to be the amount of time after execution within which such requests should be submitted. Additionally, the Exchange may bring a potential error trade to NASDAQ MarketWatch's attention. NASDAQ MarketWatch may provide assistance only to a Futures Participant, Authorized Customer or Authorized Trader. In all cases, if a potential error trade is not brought to NASDAQ MarketWatch's attention within ten (10) minutes after the relevant trade occurred, such trade will stand. The Exchange has the authority, but not the obligation, to review a trade after its execution if it determines that the trade price was egregiously out of line with fair value. See also Chapter VI, Section 5 of the NFX Rules.

## **5 EXCHANGE ACTION**

When a potential error trade is brought to NASDAQ MarketWatch's attention, NASDAQ MarketWatch will determine whether the trade price is in the "non-reviewable range" for the relevant contract, as set forth in the Rules governing such Contract. In determining whether the trade price is within the "non-reviewable range," NASDAQ MarketWatch will determine what the true market price for the relevant Contract was immediately before the potential error trade occurred. In making such determination, NASDAQ MarketWatch may consider all relevant factors, including the last trade price for such Contract, a better bid or offer price, a more recent price in a different contract month or series and the prices of related contracts trading on the Exchange or other markets.

The Exchange will make the final decision on whether a trade price is cancelled. The Exchange will notify the participants to the transaction and will notify all Futures Participants, Authorized Customers or Authorized Traders as soon as practicable (through means deemed appropriate by the Exchange) of (1) trades that the Exchange is investigating pursuant to this Rule and (2) trades that the Exchange has cancelled pursuant to this Rule. Parties to transactions are permitted to make cash adjustments to settle losses that occur as a result of an asserted error trade or an actual error trade. Should parties to a disputed transaction be unable to mutually resolve financial disputes arising from such transactions, arbitration is available as provided in Chapter VII (Arbitration) of the NFX Rules.

## **6 CANCELLED TRADE PROCEDURE**

If a trade is cancelled, either by agreement of the parties thereto or by Exchange staff, NASDAQ MarketWatch will cancel such trade. The error trade price and any invalid price quotes due to an error trade which are cancelled will be removed from the Exchange's official record of time and sales. Further, in the event a trade is cancelled, the parties to the transaction must reverse the transaction through applicable Clearing Futures Participant procedures. Such failure may be deemed an act detrimental to the interest or welfare of the Exchange. Under no circumstances shall the parties to an asserted error trade be permitted to reverse the error by entering into a pre-arranged offsetting transaction; provided that the parties may engage in pre-execution discussions with each other in accordance with procedures established by the Exchange from time to time. If the asserted error trade is determined not to be an actual error trade, the parties to the trade

are permitted to mutually agree upon a cash adjustment or to arbitrate the matter. Any cash adjustment at the time of clearing must be reported to Market Operations.

## **7 CANCELLING A CONTINGENCY ORDER**

If an error trade is cancelled, either by agreement of the parties thereto or by Exchange staff, NASDAQ MarketWatch will also cancel all trades that were triggered as a result of contingency Orders being triggered by such trade. NASDAQ MarketWatch will notify the Futures Participants responsible for the trades cancelled so that the original Orders can be re-entered into the Trading System.

## **8 MUTUAL AGREEMENT TO CANCEL TRADE**

If both parties agree to cancel a transaction, MarketWatch shall send a message to the market participants and may alert to the quote vendor network indicating that the trade was cancelled. Trade certainty and the timely resolution of asserted error trades are critical objectives of this policy. Therefore, if parties to a disputed transaction do not agree to the terms of resolution, MarketWatch reserves the final authority to determine the disposition of the questioned transaction.

## **9 CANCELLING A TRADE BETWEEN TWO FUTURES PARTICIPANTS**

Notwithstanding any other provision of this policy, NASDAQ MarketWatch is authorized to cancel any trade regardless of the price range in which the trade occurs if: (i) the trade resulted from the matching of a Futures Participant's bid, offer, or Order for the Futures Participant's own account with another bid or offer of that Futures Participant or another Order for that Futures Participant's own account; and (ii) the Futures Participant brings the relevant trade to NASDAQ MarketWatch's attention within the same Business Day in which the relevant trade occurred.

## **10 CANCELLING TRADES NOT CORRECTLY PROCESSED DUE TO SYSTEM MALFUNCTION**

MarketWatch is authorized to cancel any trade that is not correctly processed by the Trading System due to a Trading System malfunction.

## **11 ADJUSTING TRADES**

The Exchange will not adjust any trades. Adjustments must be handled through a cancellation and resubmission of a new Order.