# NADEX

September 21, 2017

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 Updates Rules Pertaining to Swap Data Repository Reporting and Order Entry - 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 update its Rules relating to order entry and to its swap data repository reporting requirements.

Nadex is updating its Rule 5.5, Order Entry, to require Members submitting messages to the Exchange either manually or via automated functionality to have controls in place to prevent detrimental or disruptive activity to the Exchange.  Additionally, Nadex is updating its Rule 6.5, Regulatory Reporting to a Swap Data Repository, to reflect the no-action letter (CFTC Letter No. 17-31, the "Letter") granted by the Division of Market Oversight and the Division of Clearing and Risk, relieving Nadex from certain reporting obligations under Commission Regulations Parts 43 and 45.

## DCM Core Principles

Nadex has identified the following Designated Contract Market ("DCM") Core Principles as potentially being impacted by the amendments discussed herein: Subpart A, General Requirements, Reporting of Swaps Traded on A Designated Contract Market (Regulation 38.10); Core Principle 4, Prevention of Market Disruption (Regulation 38.255); Core Principle 7, Availability of General Information (Regulation 38.401).

The General Requirements for all DCMs under Subpart A, Regulation 38.10 requires "With respect to swaps traded on and/or pursuant to the rules of a designated contract market, each designated contract market must maintain and report specified swap data as provided under parts 43 and 45 of this chapter." Contracts offered on Nadex are categorized as swaps, and Nadex's Rule 6.5 has until now stated that Nadex shall report available creation and continuation data to a swap data repository in order to comply with the CFTC rules governing the regulatory reporting of swaps, essentially those requirements under Parts 43 and 45. On June 30, 2017 Nadex was issued a no-action Letter, which relieved it from certain reporting requirements under Parts 43 and 45. The Rule is being updated to reflect this relief, and identify the identification number assigned to the Letter, to enable the public to locate and review the relief granted, as well as the specific conditions under which relief was granted. Therefore, the amendments to this Rule will not negatively affect Nadex's ability to comply with this requirement.

Core Principle 4 Prevention of Market Disruption, implemented by Regulation 38.255 (Risk Controls for Trading), requires the DCM to establish and maintain risk control mechanisms to prevent and reduce the potential risk of market disruptions. Nadex is updating its rule regarding order entry to inform participants submitting orders, and other messages relating to the amendment and cancellation of orders, to have controls in place to prevent activity deemed detrimental to, or disruptive to the market. The changes discussed herein are therefore in furtherance of this Core Principle, and will not negatively affect Nadex's ability to comply with it.

Core Principle 7, Availability of General Information, implemented by Regulation 38.401, requires the DCM make available to the public accurate information concerning the rules and regulations pertaining to the trading mechanisms. Additionally, this Regulation requires the DCM ensure that the Rulebook posted on its website is accurate, complete, and current. Nadex currently makes its Rulebook available to the public on its website and will continue to do so after the amendments discussed herein are implemented. The Rulebook contains the rules and regulations concerning submission of orders to the Exchange, as well as the reporting of its contracts, which are categorized as swaps, and is being updated to reflect Nadex's current reporting requirements pursuant to its recently issued no-action letter, as well as the controls Members submitting orders must have in place to prevent the risk of harm tot eh Exchange and its market participants. Accordingly, these amendments will not negatively affect Nadex's ability to comply with this Core Principle.

## DCO Core Principles

Nadex has not identified any Derivatives Clearing Organization ("DCO") Core Principles as potentially being impacted by the amendments discussed herein with respect to order entry.

Nadex has identified the following DCO Core Principles as potentially being impacted by the amendments discussed herein with respect to reporting: Core Principle J Reporting; Core Principle L Public Information.

Core Principle J Reporting, implemented by Regulation 39.19, requires the DCO to report certain information to the Commission on a daily and periodic basis. Nadex is in compliance with its obligations under this section, and has been granted other reporting relief by the Division of Market Oversight and the Division of Clearing and Risk in their no-action Letter. Nadex is amending its Rulebook to reflect this relief, and doing so will not negatively impact its ability to comply with this Core Principle.

Core Principle L Public Information, implemented by Regulation 39.21, requires the DCO to make its Rulebook publicly available. The Nadex Rulebook is publicly available on the Nadex website, and will continue to be made public after the amendments discussed herein are made. Accordingly, these amendments will not negatively affect Nadex's ability to comply with these Core Principles.

These Rule changes have been outlined in Exhibit A. The amendments to the Rulebook are set forth in Exhibit B. Any deletions are stricken out while the amendments and/or additions are underlined.

Nadex hereby certifies that the additions contained herein comply with the Act, as amended, and the Commission Regulations adopted thereunder. No substantive opposing views were expressed to Nadex with respect to any of these actions.

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

In accordance with the 10-day review period set forth in Commission Regulation 40.6(b), Nadex plans to implement these Rule changes for the start of business on trade date October 6, 2017.

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 M. Walsh
Legal Counsel

## EXHIBIT A

| Rule | Asset | Duration/Close Time | Action | Effective Date |
|------|-------|---------------------|--------|----------------|
| 5.5 | Order Entry | N/A | Amend to require adequate messaging controls to prevent disruption to the Exchange | 10/6/17 |
| 6.5 | Regulatory Reporting to a Swap Data Repository | N/A | Amend language in accordance with No-Action Relief Letter. | 10/6/17 |

**EXHIBIT B**

Amendment of Rules 5.5, 6.5

*(The following Rule amendments are underlined and deletions are stricken out)*

RULE 1.1 – 5.4 [UNCHANGED]

RULE 5.5  ORDER ENTRY

  (a)  Trading Member Orders

         (i)  A Trading Member, who is not engaged in activity pursuant to a Market Maker Agreement, will enter orders to trade Contracts by electronic transmission over the Internet.  Order rate limiter functionality will cap the maximum number of orders that may be submitted to the Exchange per second (or per a specific time period expressed in seconds) per Trading Member or Authorized Trader of a Trading Member, in order to prevent a risk of harm to the Exchange.

         (ii)  A Trading Member will enter an order to trade one or more Contracts by indicating to Nadex in the manner required by Nadex: (1) order direction (i.e., buy or sell); (2) order type (e.g., Limit Order or Market Order); (3) duration of the order (e.g., Fill or Kill, Immediate or Cancel, Good 'Til Cancel); (4) the Series of Contract; (5) the limit price at which the Trading Member wants to buy or sell the Contract, in the case of Limit Orders; (6) the number of Contracts the Trading Member want to buy or sell, and (7) the Tolerance Protection in the case of Market Orders With Protection.

         (iii)  In order to enter an order to trade one or more Contracts, a Trading Member will be required to submit the order to Nadex. Once the order is accepted by Nadex, Nadex will assign to the order an order confirmation number.  This confirmation number will appear next to the associated order on the Trading Member's Order Ticket and Order History account pages. The Trading Member will be responsible for any and all order entries confirmed for its account and accepted by Nadex.

         (iv)  Any Member submitting orders, or any other messages directly to the Exchange, including but not limited to messages related to the cancellation or amendment of an order, whether manually or via automated functionality, must ensure adequate controls are in place to prevent excessive messaging or other activity that may be deemed detrimental or disruptive to the Exchange.

  (b)  FCM Customer Orders

(i) A FCM Customer may not submit orders directly to the Exchange and all such order must be submitted by that Customer's FCM Member.

(ii) FCM Members may submit FCM Customer Orders by electronic transmission over a FIX Connection by Internet (SSL only), in accordance with Nadex's applicable policies and procedures.

(iii) FCM Members will submit a FCM Customer Order to trade one or more Contracts by indicating to Nadex in the manner required by Nadex: (1) order direction (i.e., buy or sell); (2) order type (e.g., Limit Order or Market Order); (3) duration of the order (e.g., Fill or Kill, Immediate or Cancel, Good 'Til Cancel); (4) the Series of Contract; (5) the limit price at which the FCM Customer wants to buy or sell the Contract, in the case of Limit Orders; (6) the number of Contracts the FCM Customer wants to buy or sell; (7) the Tolerance Protection in the case of Market Orders With Protection; (8) the FCM Customer Position Account identifier; and (8) the user identifier for the person who directed the submission of the order to the Exchange.

(iv) Upon receipt of a FCM Customer Order to trade one or more Contracts, a FCM Member will be required to ensure that the FCM Customer has on deposit with the FCM Member enough funds to cover the FCM Customer's maximum loss under the Contract(s) it is attempting to enter into before the order is submitted to Nadex. When the order has been submitted to and accepted by Nadex, Nadex will assign to the order an order confirmation number. This confirmation number will appear next to the associated order on the FCM Member's Order and Order History account pages. The FCM Member will be responsible for any and all order entries confirmed for its FCM Customer Position Accounts and its settlement accounts and accepted by Nadex.

(c) Nadex's trading system will keep an electronic record of all orders to trade Contracts, and all executed Contract trades. The records kept by Nadex will include all of the terms identified in paragraphs (a)(ii) – (iii) and (b)(iii) – (iv) of this Rule as well as the date and time that the transaction was completed to the nearest tenth of a second, for all executed Contract trades and to the nearest second for all orders to trade Contracts.

RULE 5.6 – 6.4 [UNCHANGED]

RULE 6.5  REGULATORY REPORTING TO SWAP DATA REPOSITORY

In accordance with the CFTC Letter No 17-31 ("Letter") issued by the Commodity Futures Trading Commission Division of Clearing and Risk and Division of Market Oversight on June 30, 2017, Nadex has been granted no-action relief with respect to various swap data reporting requirements of Parts 43 and 45 of the Commission's regulations for contracts traded on or pursuant to the rules of, and cleared by, Nadex.  Nadex will comply with all conditions of such

relief as set forth in that Letter. ~~For all Nadex Contracts traded on and cleared by Nadex, and the resulting positions, Nadex shall report available creation and continuation data to the swap data repository designated by Nadex for purposes of complying with applicable CFTC rules governing the regulatory reporting of swaps.~~

RULE 7.1 – 12.78 [UNCHANGED]