



October 12, 2018

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 Amends Various Rules - 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” or “Exchange”) hereby submits to the Commission its intent to make amendments to several of its Exchange Rules as listed below. Nadex plans to implement these changes for the open of business on trade date October 27, 2018.

Nadex plans to make the following amendments:

- 1) Rule 3.6 Rejection of Applicant and Limitations on Trading Privileges – Adds clarifying language to distinguish the authority under Rule 3.6 for placing limitations on a trading account, from any other Rule granting authority to place limitations on a trading account.
- 2) Rule 9.4 Notice and Publication of Decision – Removes references to “decision” and replaces with “disciplinary action” to avoid multiple terms with the same intended meaning. Adds language to specify when a disciplinary action is considered final.
- 3) Rule 9.5 Penalties – Grants Nadex the ability to charge interest penalties at the prime interest rate, as reported by the Wall Street Journal, on account balances, or monetary penalties that become overdue.

DCM Core Principles

Nadex has identified the following Designated Contract Market (“DCM”) Core Principles as potentially being impacted by the Rule amendments discussed herein: Core Principle 2 (Compliance with

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Rules); Core Principle 7 (Availability of General Information); and Core Principle 13 (Disciplinary Procedures).

Core Principle 2 (Compliance with Rules), implemented by Commission Regulation 38.151 (Access Requirements), requires the DCM to provide impartial access to its markets and services for members, persons with trading privileges, and independent software vendors. This Commission Regulation also notes that “[a] designated contract market must establish and impartially enforce rules governing denials, suspensions, and revocations of a member’s and a person with trading privileges’ access privileges to the designated contract market, including when such actions are part of a disciplinary or emergency action by the designated contract market.” Nadex amended its Rule 3.6 (Rejection of Applicant and Limitations on Trading Privileges) in April 2017 to allow for the limitation of trading privileges without taking formal disciplinary action, subject to certain conditions as explained in Notice 851.042117. The amendments discussed herein merely clarify that the limitations Nadex may impose pursuant to Rule 3.6 are separate and distinct from any limitations Nadex may impose pursuant to any other Exchange Rule. As no substantive changes are being made, these amendments will not negatively impact Nadex’s ability to comply with this Core Principle.

Core Principle 7 (Availability of General Information), implemented by Commission Regulation 38.401, requires the DCM to ensure its Rulebook is accurate and available on its website. Nadex currently makes its Rulebook available on its website and will continue to do so after the amendments discussed herein are implemented. Therefore, Nadex’s ability to comply with this Core Principle will not be negatively impacted by the amendments discussed herein.

Core Principle 13 (Disciplinary Procedures), and specifically Commission Regulation 38.710 (Disciplinary Sanctions), require that “[a]ll disciplinary sanctions imposed by a designated contract market or its disciplinary panels must be commensurate with the violations committed and must be clearly sufficient to deter recidivism or similar violations by other market participants.” Nadex’s Rule 9.5 currently sets forth the penalties that may be imposed on a Member as the result of disciplinary action. Nadex is amending this Rule to allow Nadex to charge interest at the approved IRS rate, on any monetary penalty that is outstanding as of the date it becomes due and payable. Nadex believes that amending this Rule to provide for interest charges on outstanding monetary penalties will further deter recidivism, and therefore enhance its compliance with this Core Principle.

DCO Core Principles

Nadex has identified the following Derivatives Clearing Organization (“DCO”) Core Principles as potentially being impacted by the Rule amendments discussed herein: Core Principle H (Rule Enforcement); Core Principle J (Reporting); and Core Principle L (Public Information).

Core Principle H (Rule Enforcement), implemented by Commission Regulation 39.17, requires the DCO to “[h]ave the authority and ability to discipline, limit, suspend, or terminate the activities of a clearing member due to a violation by the clearing member of any rule of the derivatives clearing organization....” The amendments to Rule 3.6 are meant to clarify that Nadex’s authority to limit trading activity pursuant to that Rule is separate from its authority to limit trading activity pursuant to any other Exchange Rule. Additionally, this Regulation requires the DCO to report rule enforcement activities and sanctions to the Commission in accordance with Regulation 39.19. Nadex is amending its Rule 9.4 to clarify when a disciplinary action is considered final, and will continue to report its disciplinary actions and sanctions imposed to the Commission and the National Futures Association in accordance with the applicable regulations. Other amendments to this Rule are for consistency of terminology. Therefore, the

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amendments made to these Rules will not negatively impact Nadex's ability to comply with the Core Principles.

As noted above, Core Principle J (Reporting), implemented by Commission Regulation 39.19 requires the DCO to provide to the Commission "[n]otice of action taken, no later than two business days after the derivatives clearing organization imposes sanctions against a clearing member." Nadex is amending its Rule 9.4 to more clearly identify when a disciplinary action is considered final, and will continue to meet its reporting obligations under Regulation 39.19 after the amendments become effective. Therefore, amendments to this Rule will not negatively impact Nadex's ability to comply with this Core Principle.

Core Principle L (Public Information), implemented by Commission Regulation 39.21, requires the DCO to make its Rulebook readily available to the general public. Nadex currently makes its Rulebook available on its website and will continue to do so after the amendments discussed herein are implemented. Therefore, Nadex's ability to comply with this Core Principle will not be negatively impacted.

These Exchange 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 events 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 Exchange Rule changes for the start of business on trade date October 27, 2018.

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

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EXHIBIT A

Rule	Asset	Duration/Close Time	Action	Effective Date
3.6	Rejection of Applicant and Limitation of Trading Privileges	N/A	Add clarifying language.	10/27/2018
9.4	Notice and Publication of Decision	N/A	Add language to clarify finality of disciplinary action.	10/27/2018
9.5	Penalties	N/A	Provide for interest charges on overdue balances/penalties.	10/27/2018

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EXHIBIT B

Amendment of Rules 3.6, 9.4, and 9.5

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

RULES 1.1 – 3.5 [UNCHANGED]

RULE 3.6 REJECTION OF APPLICANT AND LIMITATIONS OF TRADING PRIVILEGES

- (a) Notwithstanding Nadex's authority granted under any other Rule, Nadex may, in its sole discretion, deny any Member application, or suspend, revoke, limit, condition, restrict, or qualify the trading privileges of any account owner or authorized trader of an account owner pursuant to this Section (a) as it deems necessary or appropriate¹.
- (b) An account owner or an authorized trader of an account owner who has had trading privileges limited pursuant to Section (a) of this Rule will be provided, in writing, the reason such action was taken.
- (c) If Nadex denies the membership application of any Person or places limitations on trading privileges pursuant to this section, the applicant, account owner or authorized trader whose trading privileges have been limited may appeal the decision by filing with the CEO of Nadex a petition for review of such membership denial or trading limitation. The petition should describe in detail the reasons why the membership application should be granted or trading limitations removed. The petition must be filed within thirty (30) calendar days from the date upon which notice of the denial of membership or limitation of trading privileges was provided by Nadex. The decision of the CEO will be final. A Person that has been denied membership by the CEO will not be eligible for reapplication during the six months immediately following such denial.
- (d) If trading privileges are limited pursuant to Section (a) of this Rule, Nadex may initiate a transfer of the Member's balance to the bank account on record.

RULES 3.7 – 9.3 [UNCHANGED]

RULE 9.4 NOTICE AND PUBLICATION OF ~~DECISION~~DISCIPLINARY ACTION

(a) Nadex will provide to the person charged, notice of the disciplinary action, appeal determination, or settlement in which sanctions are imposed, no later than two business days

¹ Please reference Notice 851.042117 in the Notices section of the Nadex website for an informational Q&A page regarding this Rule.

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after it becomes final in accordance with the provisions of Commission Regulation 39.19(c)(4)(xi).

(b) Within two business days after a disciplinary action decision becomes final, notice of any disciplinary action outcome decision providing that a Member is suspended, expelled, disciplined or denied access to the Exchange shall be provided to the National Futures Association for inclusion in its internet accessible database of disciplinary matters.

(c) Nadex will make public notice of the disciplinary action ~~when that action becomes final~~ by posting on its website, in accordance with Commission Regulation 9.13, the information required by Commission Regulation 9.11. The disciplinary action will be considered final on the date the notice of the disciplinary action is published on the Nadex website.

RULE 9.5 PENALTIES

As a result of a disciplinary proceeding or as part of a settlement, Nadex may impose one or more of the following penalties:

- (a) a letter of warning, censure, or reprimand (although no more than one such letter may be issued to the same Person found to have committed the same rule violation within a rolling twelve month period);
- (b) a fine or penalty fee, which Nadex may deduct from the Member's account balance;
- (c) disgorgement of profits that resulted from the violation of any Nadex Rule, which Nadex may deduct from the Member's account balance;
- (d) suspension of membership status or privileges for a specified period, including partial suspension of such privileges (for example, suspension of trading privileges in particular types of Contracts or of placement of certain types of orders); ~~and~~
- (e) revocation of membership status or privileges, including partial revocation of such privileges (for example, revocation of trading privileges in particular types of Contracts or of placement of certain types of orders); and
- (f) interest, at the prime rate, as reported by the Wall Street Journal as of the date the amount becomes due, on any outstanding account balance, monetary fine, penalty fee, or disgorgement amount owed, compounded monthly and calculated from the date when the amount was first due and payable.

RULES 9.6 – 12.78 [UNCHANGED]

End of Rulebook.

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