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August 26, 2014

Via CFTC Portal Submissions

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

**RE: Rule Certification: Nadex Amends Language in Rule 1.1 (Definitions) and 3.1 (Trading Members) Pertaining to United States Residency – 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 amend language in its Rule 3.1 (Trading Members – Applications, Classifications, and Privileges) pertaining to United States (“US”) residency as a Membership requirement. Nadex is also making a non-substantive revision to its Rule 1.1 (Definitions) by removing the subsection indexing (i.e. (a), (b), (c), etc.) in order to more easily accommodate additional definitions in the future. Nadex plans to implement the language amendments to the Rulebook on September 11, 2014. Membership applications from non-United States residents would be accepted no earlier than September 11, 2014.

Currently, Nadex Rule 3.1 states that in order to be eligible for Exchange Membership, the applicant must “... reside in the United States” and “... provide Nadex with a valid Social Security Number...” Nadex is removing these provisions from its Membership requirements and replacing them with the requirement that the applicant must provide Nadex with any information or documentation Nadex deems necessary in order to verify the applicant’s identity, perform a criminal and regulatory background check, or to review any other information the applicant has provided on the Membership application or discovered by Nadex from an independent review. Nadex has drafted the amended Rule in anticipation of expanding its business to non-US residents.

North American Derivatives Exchange, Inc., 311 South Wacker Drive, Suite 2675, Chicago, IL 60606

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The Commission published an advisory notice on its website informing the public that it, along with the Securities Exchange Commission, has received numerous complaints of consumer fraud associated with certain websites that offer an opportunity to buy or trade binary options through Internet-based trading platforms. The Commission specifically points out that “refusal to credit customer accounts or reimburse funds to customers; identity theft; and manipulation of software to generate losing trades”<sup>1</sup> are common problem areas. In the Notice, the Commission specifically noted that Nadex, as a registered Designated Contract Market subject to federal regulatory oversight, is one of the few entities legally offering binary options in the United States<sup>2</sup>.

Nadex’s market oversight regime together with its compliance with federal obligations, have bolstered the Exchange’s credibility and reputation for integrity and providing a robust environment for US residents to trade confidently in a highly regulated and transparent marketplace. Unfortunately, many non-US residents do not have the opportunity to trade binary options in a regulated exchange environment, as many of the entities offering binary options lack government registration and regulatory oversight. In furtherance of its belief that all retail investors should have access to a safe and regulated marketplace, Nadex is planning to permit non-US residents to become Members of the Exchange, provided the applicant meets the requirements for Membership as set forth in Nadex Rule 3.1.

Nadex currently has a thorough onboarding process for its US applicants, which includes an identification verification check, criminal and regulatory background check, and manual review of any affirmative answers to any of the “Qualifying Questions” in the application<sup>3</sup>. The applicant may be required to provide, where necessary, sufficient documentation in order to verify certain identification information provided on the application that Nadex was not able to verify. Should Nadex become aware of an applicant’s criminal or regulatory history that could pose a risk to the Exchange, the Compliance Department will independently investigate the matter and may request such additional documentation or information from the applicant to assist

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<sup>1</sup>[http://www.cftc.gov/ConsumerProtection/FraudAwarenessPrevention/CFTCFraudAdvisories/fraudadv\\_binaryoptions](http://www.cftc.gov/ConsumerProtection/FraudAwarenessPrevention/CFTCFraudAdvisories/fraudadv_binaryoptions)

<sup>2</sup> *Ibid.*

<sup>3</sup> The Qualifying Questions are: (1) Has the applicant had trading privileges suspended by, been denied access to, or been denied membership in, any commodity or security exchange or association? (2) Has the applicant been convicted of, pled guilty to, or entered a plea of no contest or plea agreement to, any felony in any domestic foreign, or military court? (3)(a) Has the applicant been convicted of, pled guilty to, or entered a plea of no contest or plea agreement to, a misdemeanor in any domestic, foreign, or military court which involves: embezzlement, theft, extortion, fraud, fraudulent conversion, forgery, counterfeiting, false pretenses, bribery, gambling, racketeering, misappropriation of funds, securities, or property? (3)(b) Has the applicant been convicted of, pled guilty to, or entered a plea of no contest or plea agreement to, a misdemeanor in any domestic, foreign, or military court which involves: any transaction in or advice concerning futures, options on futures, leverage transactions, or securities? (4) Has the applicant been subject to, or associated with a firm that was subject to, regulatory proceedings before any governmental or regulatory body? (5) Is the applicant currently party to any actions, or is there a charge pending, the resolution of which could result in a Yes answer to Questions 1 through 4 above? (6) Does any other person or entity have a ten percent or more financial interest in or control over this account?

in its review and determination regarding whether the applicant should be accepted for Membership.

Non-US residents applying for Exchange Membership will also be subject to an application review process involving verification of the applicant's identity, a comparison of the applicant's identity against various global sanctions lists, and a review of the applicant's responses to the Qualifying Questions. All non-US resident applicants will be required to provide identification documents, including a valid passport and government issued identification card in order to establish the information provided on the Membership application is true and correct. Nadex may require additional correspondence or documentation from the applicant to aid in its review of any information provided by the applicant or independently discovered by Nadex which Nadex deems relevant or as potentially posing a risk to the Exchange or its Members.

In order to become a Nadex Member, an approved non-US resident applicant must fund its Nadex account with the minimum deposit amount as specified in Nadex Rule 3.1(b). A non-US resident approved applicant may make deposits to its Nadex account either from an account in that Member's name at a US financial institution, or from an account in the Member's name at a Foreign Bank<sup>4</sup> as that term is defined in Title 31, Section 1010.100 of the Code of Federal Regulations. Any deposits from or credits to the Member's account at a Foreign Bank will be made through a Correspondent Account<sup>5</sup>, as that term is defined in Title 31, Section 1010.605 of the Code of Federal Regulations. All funds deposited into, and any funds received from, the Member's Nadex account at the Nadex settlement bank will be required to be in US dollars, regardless of whether or not the Member is a US resident. Non-US resident Members will be able to make deposits to their Nadex account by wire transfer, or by debit card deposit when that method becomes available.

Initially Nadex plans to accept qualified applications for Exchange Membership from residents of Mexico, Canada, and territories of the United States. As its customer base and demand grows, Nadex expects to expand Membership opportunities beyond these countries and territories, and will post notice of any additional countries from which residents may apply on the Nadex website. Nadex does not plan to engage in any marketing or solicitation activity outside the US. The amendments to Rule 3.1 will not, at this time, apply to entity applicants; they will remain required to be legally organized and registered in the US.

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<sup>4</sup> 31 CFR 1010.100(u) defines Foreign Bank as "A bank organized under foreign law, or an agency, branch or office located outside the United States of a bank. The term does not include an agent, agency, branch or office within the United States of a bank organized under foreign law.

<sup>5</sup> 31 CFR 1010.605(c) defines Correspondent Bank as "(i) For purposes of §1010.610(a), (d), and (e), an account established for a foreign financial institution to receive deposits from, or to make payments or other disbursements on behalf of, the foreign financial institution, or to handle other financial transactions related to such foreign financial institution; and (ii) For purposes of §§1010.610(b) and (c), 1010.630 and 1010.670, an account established for a foreign bank to receive deposits from, or to make payments or other disbursements on behalf of, the foreign financial institution, or to handle other financial transactions related to such foreign financial institution;

## **DCM Core Principles**

Nadex has identified the following Designated Contract Market (“DCM”) Core Principles as potentially being impacted by these amendments: *38.151 (Access Requirements)*; *38.607 (Direct Access)*; *38.651 (Protection of markets and market participants)*.

Core Principle 38.151 (Access Requirements) states that prior to granting any member access to its markets, a DCM must require that the member consent to its jurisdiction, and provide impartial access to its markets and services. Access criteria must be impartial, transparent, and non-discriminatory, and the DCM must provide a comparable fee structure for its members. Non-US residents will be subject to the same requirements as US-residents in order to be eligible for Nadex Membership. Specifically, like US resident applicants, non-US resident applicants will be subject to an identification verification process, a review of the applicant’s responses to the Qualifying Questions, and assessment of any other risk factors discovered by the Compliance Department. In addition, a non-US resident applicant must make a minimum deposit of \$100 US dollars from an account in that individual’s name, and like all applicants, must agree to comply with the Exchange Rules, Membership Agreement, and Terms of Use. By submitting an application and agreeing to the Exchange Rules, the applicant consents to the DCM’s jurisdiction as Nadex Rule 2.10 states that “[a]ny Person initiating or executing a transaction on or subject to the Rules of the Exchange directly or through an intermediary . . . expressly consents to the jurisdiction of the Exchange”. Once granted Membership, a non-US resident will have access to the same secured portions of the Nadex website as granted to US resident Members. Therefore, the amendments discussed herein will not negatively impact Nadex’s ability to comply with this Core Principle.

Core Principle 38.607 (Direct Access) requires a DCM, that permits direct electronic access, have in place effective systems and controls to manage financial risk. Nadex contracts are, and will continue to be, fully collateralized instruments. Non-US resident Members must have sufficient funds in their account to cover the cost of the trade before their order will be accepted by the Exchange. Additionally, funding methods for non-US resident Members will be initially limited to wire transfer and debit card deposit at such time the Exchange implements that feature. By permitting non-US resident Members to make deposits only via wire transfer assures the Exchange that the Member does in fact have funds on hand that are transferred to the Exchange in US currency immediately, effectively eliminating financial risk. Accordingly, the amendments discussed herein will not negatively impact Nadex’s ability to comply with this Core Principle.

Core Principle 38.651 (Protection of Markets and Market Participants) requires the DCM to have and enforce rules that are designed to promote fair and equitable trading, and to protect the market and market participants from abusive practices including fraudulent, noncompetitive or unfair actions. Nadex uses the automated SMARTS<sup>®</sup> surveillance system to aid in the real-time monitoring of all trading activity. Like US resident Members, all transactions by non-US

resident Members will be tracked by the Member's unique username. Alerts and reports will be generated in the same manner as currently generated for US resident Members. Additionally, as with US resident Members, non-US resident Members will have undergone an identification verification process, which will enable Nadex to take appropriate disciplinary action against the proper individual in the event that a Member violates an Exchange Rule. Therefore, expanding Membership to individuals outside of the US 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 these amendments: 39.12 (Participant and Product Eligibility).

Core Principle 39.12 (Participant and Product Eligibility) requires that the DCO establish appropriate admission and continuing participation requirements for clearing Members that are objective, publicly disclosed and, risk based. As previously discussed, to be eligible for Nadex Membership, non-US residents will be subject to the same eligibility requirements as US-residents which will be set forth in Nadex Rule 3.1, and is publicly available on the Nadex website. The requirements for Membership are risk based and in place to ensure applicants have provided their true and correct identity, and do not have relevant criminal or regulatory history that could potentially harm the Exchange. Accordingly, the amendments discussed herein 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), amendments to the language in Rules 1.1 and 3.1 would become effective September 11, 2014. Membership applications from non-United States residents would be accepted no earlier than September 11, 2014.

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

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

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) 884-0953 or by email at [Donald.horwitz@nadex.com](mailto:Donald.horwitz@nadex.com).

Sincerely,

A handwritten signature in black ink that reads "Donald L. Horwitz". The signature is written in a cursive, flowing style.

Donald L. Horwitz  
General Counsel and Chief Regulatory Officer

cc: Thomas Leahy – CFTC  
Riva Adriance – CFTC  
Nancy Markowitz - CFTC  
Eileen Donovan - CFTC  
  
Tim McDermott – Nadex

**EXHIBIT A**

<b>Rule</b>	<b>Asset</b>	<b>Duration/ Close Time</b>	<b>Action</b>	<b>Effective Date</b>
1.1	Definitions	N/A	Add definitions for Foreign Bank and Correspondent Account; remove subsection indexing	9/11/2014
3.1	Trading Members – Applications, Classifications, and Privileges	N/A	Amend requirements for individual Membership	9/11/2014

## **EXHIBIT B**

### Amendment of Rules 1.1, and 3.1

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

#### RULE 1.1 DEFINITIONS

When used in these Rules:

~~(a)~~—“**Authorized Trader**” means an individual employed by a Member who is authorized by that Member to have direct access to Nadex, provided the Member maintains supervisory authority over such individual’s trading activities.

~~(b)~~—“**Binary Contract**” means the right to receive a fixed Settlement Value per contract, from Nadex on the Settlement Date dependent upon whether you are holding a long position or short position in a Binary Contract. If you are holding a long position in a Binary Contract, you have the right to receive a fixed Settlement Value from Nadex on the Settlement Date, if, and only if, the Binary Contract’s Payout Criteria encompasses the Expiration Value at Expiration. Conversely, if you are holding a short position in a Binary Contract, you have the right to receive a fixed Settlement Value if, and only if, the Binary Contract’s Payout Criteria does NOT encompass the Expiration Value at Expiration.

~~(c)~~—“**Cap**” means the maximum rate, level, amount, measure or other value of the Underlying of a Variable Payout Contract that may be the Expiration Value or the Closing Trade Value. If the actual rate, level, amount, measure, or other value of the Underlying meets or exceeds the Cap at Expiration, the Cap will be the Expiration Value.

~~(d)~~—“**Class**” means all Contracts of the same Type with the same Underlying.

~~(e)~~—“**Closing Trade Value**” means the rate, level, amount, measure, or other value of the Underlying of a Variable Payout Contract at which the Contract is closed in a Member’s or Customer’s account.

~~(f)~~—“**Commodity Futures Trading Commission**” or “**Commission**” means the Federal regulatory agency established by the Commodity Futures Trading act of 1974 to administer the Commodity Exchange Act.

~~(g)~~—“**Contract**” means a Variable Payout Contract or a Binary Contract.

~~(h)~~—“**Correspondent Account**” means an account as that term is defined in 31 CFR 1010.605(c).



~~(i)~~—“**Customer**” means a Commodity Customer, a Cleared Swap Customer, a FCM Member or a Trading member of Nadex, as the context requires. In this regard,

(i) “Commodity Customer” has the meaning set forth in Commission Regulation 1.3(k);

(ii) “Cleared Swap Customer” has the meaning set forth in Commission regulation 22.1;

(iii) “DCO Customer” has the same meaning as the definition “customer” set forth in Commission Regulation 190.01(l) and section 761(9) of the Bankruptcy Code and includes FCM Members and Trading Members of Nadex.

~~(j)~~—“**Dollar Multiplier**” means the monetary amount by which the rate, level, amount, measure, or other value of an Underlying of a Variable Payout Contract is multiplied to determine the Settlement Value.

~~(k)~~ “**End Date**” means the last day on which a delivery month will be used as the Underlying for Nadex contracts.

~~(l)~~ “**Expiration**” means the time on the Expiration Date established by these Rules at which a Contract expires and the Expiration Value of that Contract is determined.

~~(m)~~ “**Expiration Date**” means the date established by these Rules on which the Expiration Value of each Contract is determined.

~~(n)~~ “**Expiration Value**” means the rate, level, amount, measure, or other value of the Underlying at Expiration as calculated and/or published by the Source Agency.

~~(o)~~ “**FCM Member**” means any Member that is registered with the Commission as a Futures Commission Merchant and as a swap firm and is authorized by Nadex to intermediate orders of Commodity Customers or Cleared Swap Customers on the Market.

~~(p)~~ “**Financial Institution**” means a financial institution as that term is defined in 31 CFR 1010.100(t) that is required to comply with the regulations issued by the United States Department of Treasury under the Bank Secrecy Act including, but not limited to, the anti-money laundering program and customer identification program rules.

~~(q)~~ “**Floor**” means the minimum rate, level, amount, measure, or other value of the Underlying of a Variable Payout Contract that may be the Expiration Value or the Closing Trade Value. If the actual rate, level, amount, measure or other value of the Underlying meets or falls below the Floor on the Expiration Date, the Floor will be the Expiration Value.

“**Foreign Bank**” means a bank as that term is defined in 31 CFR 1010.100(u).

(⊖) **“Last Trading Day”** means, for a particular Contract, the last date on which that Contract may be traded on the Market.

(⊕) **“Long Variable Payout Contract”** means (i) the right to receive at the time the Contract is closed or on the Settlement Date any positive number resulting from subtracting the Opening Trade Value from (A) the Closing Trade Value, if the Variable Payout Contract was closed by an offsetting transaction before Expiration, or (B) the Expiration Value, if the Variable Payout Contract was held to Expiration, and then multiplying the resulting figure by the Dollar Multiplier and (ii) the obligation to pay at the time the contract is closed or on the Settlement Date any positive number resulting from subtracting from the Opening Trade Value (A) the Closing Trade Value, if the Variable Payout Contract was closed by an offsetting transaction before Expiration, or (B) the Expiration Value, if the Variable Payout Contract was held to Expiration, and then multiplying the resulting figure by the Dollar Multiplier.

(⊗) **“Market Maker”** means a Member that is granted certain privileges in exchange for assuming certain responsibilities as set forth in Chapter 4 of these Rules for the purpose of creating liquidity for certain Classes of Contracts.

(⊕) **“Member”** means a Person who is approved by Nadex to be a Trading Member or a FCM\_Member and who is bound by these Rules as they may be amended from time to time.

(⊕) **“Opening Trade Value”** means the rate, level, amount, measure, or other value of the Underlying of a Variable Payout Contract at which the Contract is opened in a Member’s account.

(⊖) **“Payout Criterion”** of a Contract means the Expiration Value or range of Expiration Values that will cause that Contract to pay a Settlement Value to the holder of a long position or the holder of a short position in such Contract. The holder of a long or short position in a Contract that receives a Settlement Value is considered to be “in-the-money” while the holder of either a long or short position in a Contract that does NOT receive a Settlement Value is considered to be “out-of-the-money”.

(⊖) **“Person”** means an individual, sole proprietorship, corporation, limited liability company, partnership, trust, or any other entity.

(⊗) **“Regulatory Agency”** means any government body, including the Commission and Securities and Exchange Commission, and any organization, whether domestic or foreign, granted authority under statutory or regulatory provisions to regulate its own activities and the activities of its members, and includes Nadex, any other clearing organization or contract market, any national securities exchange or clearing agency, the National Futures Association (“NFA”) and the Financial Industry Regulatory Authority (“FINRA”).

(⊖) **“Series”** means all Contracts of the same Class having identical terms, including Payout Criterion and Expiration Date.

(z) **“Settlement Date”** means the date on which money is paid to the account of a Member who has the right to receive money pursuant to a Variable Payout Contract or Binary Contract held until Expiration, and on which money is paid from the account of a Member who is obligated to pay money pursuant to a Variable Payout Contract held until Expiration. Unless otherwise specified in these Rules, the Settlement Date is the same day as the Expiration Date.

(aa) **“Settlement Value”** means the amount paid to the holders of in-the-money Contracts. The minimum Settlement Value of a Binary Contract is \$100. The Settlement Value of a Variable Payout Contract is determined as described in the definition for Long and Short Variable Payout Contracts.

(bb) **“Short Variable Payout Contract”** means (i) the right to receive at the time the Contract is closed or on the Settlement Date any positive number resulting from subtracting from the Opening Trade Value (A) the Closing Trade Value, if the Variable Payout Contract was closed by an offsetting transaction before Expiration, or (B) the Expiration Value, if the Variable Payout Contract was held to Expiration, and then multiplying the resulting figure by the Dollar Multiplier and (ii) the obligation to pay at the time the Contract is closed or on the Settlement Date any positive number resulting from subtracting the Opening Trade Value from (A) the Closing Trade Value, if the Variable Payout Contract was closed by an offsetting transaction before Expiration, or (B) the Expiration Value, if the Variable Payout Contract was held to Expiration, then multiplying the resulting figure by the Dollar Multiplier.

(cc) **“Source Agency”** means the agency that publishes the Underlying economic indicator and/or Expiration Value for any Contract.

(dd) **“Speculative Position Limits,” or “Position Limit”** means the maximum position, either net long or net short, in one Series or a combination of various Series of a particular Class that may be held or controlled by one Member as prescribed by Nadex and/or the Commission.

(ee) **“Start Date”** means the date on which a new delivery month will be used as the Underlying for Nadex contracts.

(ff) **“Trade Day”** means the regular trading session on any given calendar date and the evening session, if any, on the immediately preceding calendar date, as specified in Rule 5.11.

(gg) **“Trading Member”** means a Person who has been approved by Nadex to trade directly and not through a FCM Member on the Market, and does not include any FCM Member.

(hh) **“Type”** means the classification of a Contract as a Variable Payout Contract or a Binary Contract.

(ii) **“Underlying”** means the index, rate, risk, measure, instrument, differential, indicator, value, contingency, occurrence, or extent of an occurrence the Expiration Value of

which determines whether (and, in the case of a Variable Payout Contract, to what extent) a Contract is in-the-money.

(jj) **“Variable Payout Contract”** means a Long Variable Payout Contract and/or a Short Variable Payout Contract (such Variable Payout Contracts are also referred to as “Spread(s)” or “Narrow Spread(s)”).

(kk) **“12PM”** or **“12:00 PM”** means 12:00 Noon

RULES 2.1 – 2.10 [UNCHANGED]

### RULE 3.1 TRADING MEMBERS - APPLICATIONS, CLASSIFICATIONS, AND PRIVILEGES

(a) To be eligible to become a Trading Member:

(i) An applicant who is an individual, must:

1) ~~reside in the United States;~~ 1) provide Nadex with any information or documentation Nadex deems necessary in order to verify the applicant’s identity, perform a criminal background check, or otherwise review information provided on an Application for Membership or by a third party provider<sup>6</sup>;

2) ~~provide Nadex with a valid Social Security Number;~~

~~3)2) have an account or accounts in the Trading Member’s name with a Financial Institution that the Trading Member will use to fund its Nadex account at the Nadex settlement bank, and to receive funds from its Nadex account, or, if the Trading Member is a non-United States resident, have an account or accounts in the Trading Member’s name with either a US Financial Institution or a Foreign Bank that the Trading Member will use to fund its Nadex account at the Nadex settlement bank, and to receive funds from its Nadex account, through a Correspondent Account, via one of the acceptable methods as stated on the Nadex website<sup>7</sup>; and~~

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<sup>6</sup> Required documentation may vary depending on the applicant’s residential location. Specific residential locations from which Nadex may accept applications for Membership will be identified on the Nadex Membership application.

<sup>7</sup> All funds deposited into the Trading Member’s Nadex account at the Nadex settlement bank shall be in U.S dollars. All withdrawal payments from the Trading Member’s Nadex account will also be made in U.S. dollars.

4)3) certify that

(A) the applicant is old enough to enter into a legally enforceable contract and has reached the required age as stated on the Membership Agreement;

(B) the applicant has read and understands the Nadex Risk Disclosure Statement and Membership Agreement;

(C) the applicant agrees to be bound by these Rules; and

(D) the applicant will trade only for itself and will not trade as an intermediary for any other person or entity.

(ii) An applicant that is an entity must

(1) be organized in the United States;

(2) provide Nadex with a valid Taxpayer Identification Number;

(3) provide Nadex with a valid Legal entity Identifier as described in Commission Regulation §45.6;

(4) have an account or accounts in the Trading Member's name with a Financial Institution that the Trading Member will use to fund its Nadex account at the Nadex settlement bank, and to receive funds from its Nadex account, via one of the acceptable methods as stated on the Nadex website; and

(5) designate Authorized Trader(s) to trade its account and agree that such Authorized Trader(s) will trade only for it and will not trade for him/herself or as an intermediary for any other entity or person;

(6) designate at least one officer who is responsible for supervising all activities of its employees relating to transactions effected on Nadex or subject to Nadex Rules and provide any information Nadex may request regarding such officer(s);

(7) agree to be bound by these Rules; and

(8) certify that

(A) the applicant is validly organized, in good standing, in the United States;

(B) the applicant is authorized by its governing body and, if relevant, documents of organization, to trade commodities, swaps, futures and options contracts, and

(C) the applicant has read and understands the Nadex Risk Disclosure Statement and Membership Agreement.

(b) In order to become a Trading Member, an applicant who is an individual must complete and submit the Nadex on-line membership application, provide Nadex with any other information Nadex may request, and fund its Nadex account by transferring to the appropriate segregated Cleared Swap Proprietary Account at Nadex's settlement bank an initial deposit of no less than \$100 in funds from its account at a Financial Institution. An applicant who is an entity must complete an Account Certification, Membership Agreement, and W-9, which collectively shall constitute the membership application, provide Nadex with any other information Nadex may request, and fund its Nadex account by transferring to the appropriate segregated Cleared Swap Proprietary Account at Nadex's settlement bank an initial deposit of no less than \$100 in funds from its account at a Financial Institution. All funds deposited by Trading Members shall constitute "Member Property" in accordance with CFTC Regulations.

(c) Submission of a membership application to Nadex constitutes the applicant's agreement to be bound by these Rules and other policies of Nadex.

(d) If an application is approved by Nadex and the Nadex settlement bank confirms to Nadex that the applicant has deposited with it the funds required in paragraph (b) of this Rule, the applicant will be a Trading Member of Nadex and will have the following privileges, which Nadex may revoke, amend, or expand in accordance with, or by amending, these Rules:

- (iii) to maintain a Nadex account;
- (iv) to buy Contracts on the Market using the funds in its Nadex account;
- (v) to sell Contracts on the Market using the funds in its Nadex account;
- (vi) to view "real-time" the same best bids to buy and offers to sell the Contracts traded on the Market as are available to all other Members;
- (vii) to receive access to the Market via the FIX Gateway, provided the Trading Member executes a Nadex FIX Connection Agreement, agrees to pay any and all trading and other fees or charges incurred for such access and complies with any requirements or restrictions established by Nadex in connection with such access;
- (viii) to view the current trading volume and open interest for the Contracts traded on the Market; and

(ix) to view all non-secure parts of the Nadex website, including these Rules, and descriptions of Contracts traded on the Market as well as all secure parts of the Nadex website outlined above in Rule 3.1(d)(i) – (vi).

(e) Nadex may in its sole discretion approve, deny, or condition any Member application as Nadex deems necessary or appropriate.

(f) A Trading Member that is an individual, may not maintain and/or trade more than one Nadex account. The Authorized Trader(s) of a Trading Member that is an entity, may not maintain a separate Nadex account and/or trade any Nadex account other than that entity's account.

RULES 3.2 – 12.78 [UNCHANGED]

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