



February 3, 2017

Via CFTC Portal

Mr. Christopher J. 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: Notice of Emergency Action: Nadex Reverts Settlement Procedure - Submission Pursuant to Commission Regulation §40.6(a)**

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 (the “Commission”) under the Act (the “Regulations”), North American Derivatives Exchange, Inc. (“Nadex”, the “Exchange”) hereby submits to the Commission this notice of emergency action.

On November 23, 2016 Nadex submitted a self-certification (submission number 1611-2316-5621-74) to the CFTC providing notice that it planned to amend its settlement procedures beginning on December 19, 2016. For FX contracts, the new settlement procedure would utilize all underlying Midpoints (calculated from the bid/ask spread 10 pips wide or less, as defined in Rule 1.1) in the last 10 seconds leading up to expiration of the Nadex contract to calculate the expiration value, provided at least 10 Midpoints are collected within those 10 seconds. The highest and lowest 30% Midpoints are then removed and the remainder averaged. On February 3, 2017, the total nonfarm payroll employment number was released by the Bureau of Labor Statistics, which is believed to have had an effect on the FX market, causing a wider than usual bid/ask spread in the underlying currency market, and therefore increasing the number of discarded prices available for use in the expiration value calculation, due to a greater than 10 pip wide bid/ask spread. This resulted in several data sets used in the FX expiration value calculation not having a valid Midpoint(s) occurring within the last second or so

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leading up to expiration of the contract. During a routine review, it was discovered that for these data sets, rather than using all Midpoints in the final 10 seconds leading up to expiration of the contract, the system was using all Midpoints occurring in the 10 seconds prior to the first valid Midpoint captured prior to expiration. To illustrate, assume a contract is scheduled to expire at 8:30:00. No valid Midpoint occurs during the 8:29:59 second, rather the first valid Midpoint able to be used in the calculation process occurs during the 8:29:58 second. Instead of using all valid Midpoints between 8:29:50 and 8:29:59 (the 10 seconds leading up to expiration), the system was using all valid Midpoints between 8:29:49 and 8:29:58 (the 10 seconds prior to the first usable Midpoint). This issue was discovered at approximately 8:30am ET. The problem appeared to stem from a coding error, which would affect the data sets used in calculation during period where either no quotes occurred in the underlying markets in the few seconds just prior to expiration, or where the underlying bid/ask spread exceeded 10 pips wide and was therefore considered an unusable Midpoint.

After the issue was discovered, the settlement process was reverted back to the method used prior to December 19, 2016, whereby only the last 10 underlying Midpoints leading up to expiration of the Nadex contracts are collected for the data set, the highest and lowest 3 Midpoints are removed, and the remaining 4 Midpoints are averaged, and the resulting value rounded to one decimal point past the precision of the underlying market. The first expiration time for which this procedure was used after reverting back was the 12:20pm ET expiration.

No Member complaints were received with respect to the issue. Pursuant to Nadex Rule 6.3(c), settlements occurring in excess of 24 hours prior to a discovered error will be considered final. Accordingly, Nadex reviewed all settlements occurring for the FX contracts from 8:30am ET on February 2, 2017 through 12:20pm ET on February 3, 2017 (when the procedure was reverted to the pre-December 19 method). All expiration values for this period were reviewed, and it was discovered that nine expiration values were affected by the error. Of these, three contracts resulted in a change in settlement payout, a total of \$800, to four non-Market Maker Members by ledger adjustment. Any non-Market Maker Member who would have lost money as a result of the change in settlement payout was not required to remit these funds. Any adjustments to the Market Makers will be assessed on Monday, February 6, 2017.

No substantive opposing views were expressed to Nadex with respect to this emergency action.

This emergency action is authorized by the Chief Compliance Officer and the Chief Operations Officer of Nadex per Nadex Rule 2.4.

Nadex hereby certifies that the revisions or amendments contained herein comply with the Act, as amended, and the Commission Regulations adopted thereunder.

Nadex hereby certifies that a copy of this amendment 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) 884-0927 or by email at [jaime.walsh@nadex.com](mailto:jaime.walsh@nadex.com).

Sincerely,



Jaime Walsh  
Legal Counsel