



**Jaime M. Walsh**  
+1 (312) 884-0927  
Jaime.walsh@nadex.com

April 8, 2019

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 Lists Gross Domestic Product (“GDP”) and Unemployment Rate Binary Contracts – Submission Pursuant to Commission Regulation §40.2(a)**

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (the “Act”), and §40.2(a) of the regulations promulgated by the Commodity Futures Trading Commission (the “Commission”) under the Act, North American Derivatives Exchange, Inc. (“Nadex” or the “Exchange”) hereby submits to the Commission its intent to add Gross Domestic Product (“GDP”) and Unemployment Rate Binary contracts to its product listing. Nadex plans to list the GDP Binary contract for trade date April 22, 2020. The Unemployment Rate Binary contract will be listed according to its contract specifications prior to the next Unemployment Rate release date.

To add to its current listing of Event Contracts, which includes the Nadex Initial Jobless Claims and Nonfarm Payrolls Binary contracts, Nadex plans to list binary contracts based on the advance estimate of real gross domestic product (“GDP”) and the unemployment rate. The new GDP and Unemployment Rate Binary contracts are part of Nadex’s efforts to ignite interest in event contracts.

The new products will be structured in much the same way as the Initial Jobless Claims and Nonfarm Payrolls Binary contracts. Five strike levels will be generated for the GDP and Unemployment Rate Binary contracts with consecutive width levels. Contracts will be settled based on the advance estimate of real GDP last reported by the United States Department of Commerce, Bureau of Economic Analysis and the unemployment rate last reported by the United States Department of Labor, Bureau of Labor Statistics. Like all Nadex binary contracts, the GDP and Unemployment Rate Binary contracts will have a settlement payout of either \$100 or \$0. Both contracts will be listed at 8:00AM ET on the first trading day and will cease trading at 8:25AM ET on the date the relevant figures are scheduled to be

North American Derivatives Exchange, Inc., 200 West Jackson Blvd., Suite 1400, Chicago, IL 60606

U.S Toll-Free +1 (877) 77 NADEX info@nadex.com [www.nadex.com](http://www.nadex.com)

No. 20200408(1)

released. Nadex has at least one dedicated market maker who is committed to providing liquidity for these markets.

### DCM Core Principles

Nadex has identified the following Designated Contract Market (“DCM”) Core Principles as potentially being impacted by the launch of the GDP and Unemployment Rate Binary contracts: Core Principle 2 (Compliance with Rules), Core Principle 3 (Contracts Not Readily Subject to Manipulation), Core Principle 4 (Prevention of Market Disruption), Core Principle 7 (Availability of General Information), Core Principle 8 (Daily Publication of Trading Information), and Core Principle 18 (Recordkeeping).

Core Principle 2 (Compliance with Rules), implemented by Commission Regulations Subparts 38.156 and 38.157, require a DCM to maintain an automated trade surveillance system capable of detecting and investigating potential trade practice violations, and to conduct real-time market monitoring of all trading activity. Nadex uses the automated SMARTS® surveillance system to aid in the ongoing monitoring of all trading activity and has the capability of detecting potential trade practice violations based on the parameters set by the DCM. This surveillance system monitors all trading activity on the Exchange in real-time and will be able to monitor activity in the GDP and Unemployment Rate Binary contracts in the same manner, in addition to internal surveillance methods. The Nadex surveillance system and its staff currently monitor all trading activity, and this will not change with the addition of GDP and Unemployment Rate Binary contracts. Therefore, the addition of GDP and Unemployment Rate Binary contracts will not negatively impact Nadex’s ability to comply with this Core Principle.

Core Principles 3 and 4 require a DCM to list only contracts that are not readily susceptible to manipulation and to prevent market disruption. Nadex has at least one of its existing Market Makers that has committed to providing liquidity in these contracts, should limit opportunities for the events markets to be manipulated. As previously stated, Nadex also uses the SMARTS surveillance system to assist with market monitoring and has a staff dedicated to market surveillance to detect potential market manipulation. Finally, the expiration value for the listed contracts will be the relevant GDP and Unemployment Rate figures released by the US Department of Economic Analysis and the Department of Labor, respectively. In an effort to prevent an early release of such statistics, the release dates are published well in advance of the release.

Regulation 38.256 requires a DCM to have the ability to comprehensively and accurately reconstruct all trading on its trading facility. Nadex is currently able to reconstruct trading in its Contracts based on the data stored in the database, the Nadex SMARTS surveillance system, as well as the Exchange log files. Trade data will continue to be stored in this same manner following the addition of the GDP and Unemployment Rate Binary contracts. Therefore, the addition of these contracts will not negatively impact Nadex’s ability to comply with these Core Principles.

Core Principles 7 and 8, implemented by Regulations Subsections 38.400, 38.401, 38.450, and 38.451, require a DCM to make available to the public accurate information regarding the contract terms and conditions, as well as daily information on contracts such as settlement price, volume, open interest, and opening and closing ranges. Nadex makes the Exchange Rulebook available on its website, as well as the Daily Bulletin which contains the preceding required information. The Results page on the website also publishes the Expiration Value and Settlement Value for all Nadex contracts settled during that week. Contract specifications for the GDP and Unemployment Rate Binary contracts will likewise be set forth in

the Rulebook and on the Nadex website. Daily settlement prices, volume, open interest, and opening and closing ranges for the new contracts will be included on the Daily Bulletin and posted on the Nadex website. Therefore, the addition of event contracts will not negatively impact Nadex's ability to comply with these Core Principles.

Finally, Core Principle 18, implemented by Regulation Subsection 38.951, requires a DCM to maintain records in accordance with part 45, Swap Data Recordkeeping and Reporting Requirements. In early 2013, Nadex and CFTC staff engaged in discussions regarding the classification of its Binary Contracts and Variable Payout Contracts following the Dodd-Frank amendments to the Act. The review resulted in the determination that Nadex Binary Contracts and Variable Payout Contracts were deemed to be "swaps" under Section 1a(47) of the Act. On June 30, 2017, Nadex was granted relief in CFTC Letter No. 17-31 (the "Letter") from Commission Regulations 38.8(b), 38.10, 38.951 (in part), 39.20(b)(2) and Parts 43 and 45 with respect to its binary and spread contracts. The Nadex GDP and Unemployment Rate Binary contracts are binary options that would be covered by the relief letter, and therefore any trading activity in these contracts will not be reported to a swap data repository. Nadex will continue to meet the requirements for which it has not been granted relief, as well as the conditional requirements set forth in the Letter. Therefore, the amendments discussed herein will negatively impact Nadex's ability to comply with this Core Principle.

#### DCO Core Principles

Nadex has identified the following Derivatives Clearing Organization ("DCO") Core Principles as potentially being impacted by the amendments discussed herein: Core Principle C (Participant and Product Eligibility), Core Principle E (Settlement Procedures), Core Principle K (Recordkeeping), and Core Principle L (Public Information).

Core Principle C, implemented by Regulation 39.12, requires a DCO to determine the eligibility of contracts for clearing. Nadex has determined the GDP and Unemployment Rate Binary contracts will be eligible for clearing as trading in these event contracts will be on a fully-collateralized basis, as required by Nadex's Order of Designation, thereby mitigating any credit risk of a particular member to Nadex or any other market participant.

Core Principle E, implemented by Regulation 39.14, includes in the definition of 'settlement', "All payments due in final settlement of futures, options, and swaps on the final settlement date with respect to such positions". Nadex's event contracts will settle in a timely manner after the expiration value is published by the federal government department. Also, in accordance with this Core Principle, Nadex will continue to maintain an accurate record of the flow of funds associated with each settlement of its events contracts. Therefore, the amendments discussed herein will not negatively impact Nadex's ability to comply with this Core Principle.

Core Principle K, implemented by Regulation 39.20, requires a DCO that clears swaps maintain swap data in accordance with the requirements of part 45. As indicated above, Nadex has been granted relief from Commission Regulations 38.8(b), 38.10, 38.951 (in part), 39.20(b)(2) and Parts 43 and 45 in CFTC Letter No. 17-31 with respect to its binary option and spread contracts. Nadex will continue to meet the requirements for which it has not been granted relief, as well as the conditional requirements set forth in the Letter.

Core Principle L, implemented by Regulation 39.21, requires a DCO to make available to the public the terms and conditions of each contract, as well as the daily settlement prices, volume, and open interest of the contract. As stated previously, the Rulebook contains the contract specifications for all contracts listed on the Exchange and is made available to the public on the Nadex website. All settlement values are listed on the Nadex website on the 'Results Page', as well as the Daily Bulletin which also shows volume and open interest. Therefore, the amendments discussed herein will not negatively impact Nadex's ability to comply with this Core Principle.

Nadex is planning to list the GDP Binary contract for trade date April 22, 2020. The Unemployment Rate Binary contract will be listed according to its contract specifications prior to the next Unemployment Rate release date.

Rule amendments and additions have been outlined in Exhibit A. The amendments to the Rulebook are set forth in Exhibit B. Any deletions have been stricken out while the amendments and/or additions have been 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) 884-0927 or by email at [Jaime.walsh@nadex.com](mailto:Jaime.walsh@nadex.com).

Sincerely,



Jaime Walsh  
Legal Counsel

**EXHIBIT A**

<b>Rule</b>	<b>Asset</b>	<b>Duration/Close Time</b>	<b>Action</b>	<b>Effective Date</b>
12.74	Gross Domestic Product (“GDP”) Binary Contracts	8:25AM ET on the Last Trading Date	Add Gross Domestic Product (“GDP”) Binary Contracts	04/22/2020
12.75	Unemployment Rate Binary Contracts	8:25AM ET on the Last Trading Date	Add Unemployment Rate Binary Contracts	04/22/2020

North American Derivatives Exchange, Inc., 200 West Jackson Blvd., Suite 1400, Chicago, IL 60606

U.S Toll-Free +1 (877) 77 NADEX info@nadex.com [www.nadex.com](http://www.nadex.com)

## **EXHIBIT B**

Amendments of Rules 12.74, 12.75

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

RULES 1.1 – 12.73 [UNCHANGED]

### RULE 12.74 GROSS DOMESTIC PRODUCT (“GDP”) BINARY CONTRACTS

(a) SCOPE – These Rules shall apply to the Class of Contracts referred to as the Gross Domestic Product Binary Contract issued by Nadex.

(b) UNDERLYING – The Underlying for this Class of Contracts is the advance estimate of real gross domestic product (“GDP”) last reported by the Source Agency. The Start Date for the GDP Binary Contracts will be at least two business days prior to the next Expiration Date. The End Date will be the Last Trading Date.

(c) SOURCE AGENCY – The Source Agency is the United States Department of Commerce, Bureau of Economic Analysis (“BEA”).

(d) TYPE – The Type of Contract is a Binary Contract.

(e) PAYOUT CRITERION - The Payout Criterion for each Contract will be set by Nadex at the time the Binary Contracts are initially issued. For the GDP Binary Contract, the Payout Criteria for the Contracts will be set as follows:

#### (i) WEEKLY GDP BINARY CONTRACTS

(1) At the commencement of trading in a GDP Binary Contract, Nadex shall list all eligible Payout Criteria in a range of five (5) consecutive increments between 0.0% and 5.0%, as determined by Nadex, with contract Payout Criteria of greater than or equal to ( $\geq$ ). For example, Nadex may list the following range of Payout Criteria (using a 0.1% increment): 2.2%, 2.3%, 2.4%, 2.5%, 2.6%. For the next issuance, Nadex may list the following range of Payout Criteria (using a 0.5% increment): 1.5%, 2.0%, 2.5%, 3.0%, and 3.5%.

(2) In each case above, “X” equals the first Payout Criteria listed. In the first example above, this is 2.2%; in the second example above, this is 1%.

(ii) Nadex may list additional GDP Binary Contracts with different ranges of Payout Criteria on a discretionary basis in accordance with the BEA and Commission Regulations.

(g) MINIMUM TICK – The Minimum Tick size for the GDP Binary Contracts shall be \$0.25.

North American Derivatives Exchange, Inc., 200 West Jackson Blvd., Suite 1400, Chicago, IL 60606

U.S Toll-Free +1 (877) 77 NADEX info@nadex.com [www.nadex.com](http://www.nadex.com)

(h) POSITION LIMIT – There are currently no Position Limits for the GDP Binary Contract.

(i) LAST TRADING DATE – The Last Trading Date in a Series is the same day as the Expiration Date. The GDP Binary Contracts will stop trading on the Last Trading Date at 8:25 AM ET.

(j) SETTLEMENT DATE – The Settlement Date of the Contract shall be the same date that the GDP number is released by the Source Agency.

(k) EXPIRATION DATE – The Expiration Date of the Contract shall be the date on which the GDP number is scheduled to be released by the Source Agency.

(l) SETTLEMENT VALUE – The Settlement Value is the amount paid to the holder of the in the money Contract on Settlement Date. The Settlement Value of an in the money GDP Binary Contract is \$100.

(m) EXPIRATION VALUE – The Expiration Value is the GDP number released by the Source Agency on the Expiration Date. The Expiration Value is released by the Source Agency at 8:30 AM ET on the Expiration Date.

(n) CONTINGENCIES – If no level is actually announced on the Expiration Date due to a delay, postponement or otherwise in such release announcement by the Source Agency, the Settlement Date will be delayed until the Underlying number is released for that Series.

#### RULE 12.75 UNEMPLOYMENT RATE BINARY CONTRACTS

(a) SCOPE – These Rules shall apply to the Class of Contracts referred to as the Unemployment Rate Binary Contract issued by Nadex.

(b) UNDERLYING – The Underlying for this Class of Contracts is the unemployment rate last reported by the Source Agency. The Start Date for the Unemployment Rate Binary Contracts will be at least two business days prior to the next Expiration Date. The End Date will be the Last Trading Date.

(c) SOURCE AGENCY – The Source Agency is the United States Department of Labor, Bureau of Labor Statistics (“BLS”).

(d) TYPE – The Type of Contract is a Binary Contract.

(e) PAYOUT CRITERION – The Payout Criterion for each Contract will be set by Nadex at the time the Binary Contracts are initially issued. For the Unemployment Rate Binary Contract, the Payout Criteria for the Contracts will be set as follows:

#### (i) WEEKLY UNEMPLOYMENT RATE BINARY CONTRACTS

North American Derivatives Exchange, Inc., 200 West Jackson Blvd., Suite 1400, Chicago, IL 60606

U.S Toll-Free +1 (877) 77 NADEX info@nadex.com [www.nadex.com](http://www.nadex.com)

(1) At the commencement of trading in an Unemployment Rate Binary Contract, Nadex shall list all eligible Payout Criteria in a range of five (5) consecutive increments between 0.0% and 5.0%, as determined by Nadex, with contract Payout Criteria of greater than or equal to (>=). For example, Nadex may list the following range of Payout Criteria (using a 0.1% increment): 7.5%, 7.6%, 7.7%, 7.8%, and 7.9%. For the next issuance, Nadex may list the following range of Payout Criteria (using a 1.0% increment): 6.5%, 7.5%, 8.5%, 9.5%, and 10.5%.

(2) In each case above, “X” equals the first Payout Criteria listed. In the first example above, this is 7.5%; in the second example above, this is 6.5%.

(ii) Nadex may list additional Unemployment Rate Binary Contracts with different ranges of Payout Criteria on a discretionary basis in accordance with the Department of Labor and Commission Regulations.

(g) MINIMUM TICK – The Minimum Tick size for the Unemployment Rate Binary Contracts shall be \$0.25.

(h) POSITION LIMIT – There are currently no Position Limits for the Unemployment Rate Binary Contract.

(i) LAST TRADING DATE – The Last Trading Date in a Series is the same day as the Expiration Date. The Unemployment Rate Binary Contracts will stop trading on the Last Trading Date at 8:25 AM ET.

(j) SETTLEMENT DATE – The Settlement Date will be the date the Unemployment Rate number is released by the Source Agency.

(k) EXPIRATION DATE – The Expiration Date of the Contract will be the date on which the Unemployment Rate number is scheduled to be released.

(l) SETTLEMENT VALUE – The Settlement Value is the amount paid to the holder of the in the money Contract on Settlement Date. The Settlement Value of an in the money Unemployment Rate Binary Contract is \$100.

(m) EXPIRATION VALUE – The Expiration Value is the level of the Unemployment Rate release number on the Expiration Date. The Expiration Value is released by the Source Agency at 8:30 AM ET on the Expiration Date.

(n) CONTINGENCIES – If no level is actually announced on the Expiration Date due to a delay, postponement or otherwise in such release announcement by the Source Agency, the Settlement Date will be delayed until the Underlying number is released for that Series.

*End of Rulebook.*

North American Derivatives Exchange, Inc., 200 West Jackson Blvd., Suite 1400, Chicago, IL 60606

U.S Toll-Free +1 (877) 77 NADEX info@nadex.com [www.nadex.com](http://www.nadex.com)