



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

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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 Lists Initial Jobless Claims and Nonfarm Payrolls 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 Initial Jobless Claims and Nonfarm Payrolls Binary contracts to its product listing. Nadex also plans to offer a fee rebate for trades in these markets in January and February 2020. Nadex plans to list these products for trade date January 6, 2020.

Nadex previously listed Binary contracts based on Initial Jobless Claims and Nonfarm Payrolls figures released by the Department of Labor, which were delisted on May 16, 2019. Nadex is planning to relaunch these contracts with a new marketing plan designed to generate interest in and attract traders to these products. Five strike levels will be generated for the Initial Jobless Claims and Nonfarm Payrolls Binary contracts with consecutive widths levels. Contracts will be settled based on the Initial Jobless Claims and Nonfarm Payrolls figured published by the US Department of Labor, and like all Nadex 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 of the week in which the corresponding figure is published by the Department of Labor. The Initial Jobless Claims Binary contracts will cease trading at 8:25AM ET on the Thursday of the week the contract is listed, unless otherwise noted. The Nonfarm Payrolls Binary contracts will cease trading at 8:25AM ET on the Friday of the week the contract is listed, unless otherwise noted.

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

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

In addition to a new marketing plan and dedicated marketing resources to promote the Initial Jobless Claims and Nonfarm Payrolls, Nadex also plans to offer free trading in these markets from the planned launch on January 6, 2020 through February 28, 2020 as an incentive to generate interest in the event contracts. Trading Member trade and settlement fees will be waived for trading activity in the Initial Jobless Claims and Nonfarm Payrolls Binary contracts, which will be refunded to the Member in the form of a rebate credit to the Member's account in the month following the month the fees are incurred. It is anticipated that the fee waiver will continue to be rebated for the duration of January and February 2020 but may at some point be applied in real-time. Market Makers operating pursuant to a Nadex Market Maker Agreement will not be eligible for the event contract fee rebate. Nadex plans to resume the regular fee schedule for the Initial Jobless Claims and Nonfarm Payrolls Binary contracts for the first trade date in March 2020.

DCM Core Principles

Nadex has identified the following Designated Contract Market ("DCM") Core Principles as potentially being impacted by the launch of the Initial Jobless Claims and Nonfarm Payrolls Binary contracts and the initial fee waiver: 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 Regulation 38.151 (Access Requirements) requires a DCM provide impartial access to its markets to any of its members or market participants, including comparable fee structures for members and persons with trading privileges. In its proposed amendments to Part 38 of the Commission's Regulations, Commission staff noted that a DCM "may establish different categories of market participants, but may not discriminate within a particular category. Fee structures may differ among categories if such fee structures are reasonably related to the cost of providing access or services to a particular category."¹ Nadex's direct, non-Market Maker Trading Members are a specific category of market participant, and the initial fee waiver for event contracts will apply to any non-Market Maker Trading Member. Accordingly, the amendments discussed herein will not negatively impact Nadex's ability to comply with this Core Principle.

Additionally, Commission Regulations Subparts 38.156 and 38.157, which also implement Core Principle 2, 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[®]

¹ 75 Fed. Reg. 80579 (Dec. 22, 2010).

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 Initial Jobless Claims and Nonfarm Payrolls 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 Initial Jobless Claims and Nonfarm Payrolls Binary contracts. Therefore, the addition of Initial Jobless Claims and Nonfarm Payrolls 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 Initial Jobless Claims or Nonfarm Payrolls figures released by the US Department of Labor. In an effort to prevent an early release of such labor statistics, the release dates are published a year in advance.

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 Initial Jobless Claims and Nonfarm Payrolls 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 Initial Jobless Claims and Nonfarm Payrolls 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 Initial Jobless Claims and Nonfarm Payrolls 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 Initial Jobless Claims and Nonfarm Payrolls 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 Department of Labor. 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.

While Regulation 40.2(a) requires the submission for a new product listing be received by the Commission by the open of business on the business day preceding the product's listing, Nadex is planning on listing the event contracts no earlier than trade date January 6, 2020.

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.

Sincerely,



Jaime Walsh
Legal Counsel

EXHIBIT A

Rule	Asset	Duration/Close Time	Action	Effective Date
12.66-12.71	N/A	N/A	Reserving space for future Rules.	01/06/2020
12.72	Initial Jobless Claims Binary Contracts	8:25AM ET on the Last Trading Date	Add Initial Jobless Claims Binary Contracts	01/06/2020
12.73	Nonfarm Payrolls Binary Contracts	8:25AM ET on the Last Trading Date	Add Nonfarm Payrolls Binary Contracts	01/06/2020

EXHIBIT B

Amendments of Rules 12.66-12.71, 12.72, 12.73

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

RULES 1.1 – 12.65 [UNCHANGED]

RULES 12.66 – 12.71 [RESERVED]

RULE 12.72 INITIAL JOBLESS CLAIMS BINARY CONTRACTS

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

(b) UNDERLYING – The Underlying for this Class of Contracts is the number of claims submitted for unemployment insurance benefits (seasonally adjusted and hereinafter referred to as “Initial Jobless Claims” or “Initial Claims”) last reported by the U.S. Department of Labor, Employment and Training Administration (“ETA”) Division.

(c) SOURCE AGENCY – The Source Agency is the U.S. Department of Labor.

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

(e) ISSUANCE – For each planned release by the Source Agency of the Underlying, Nadex will issue various Contracts, each of a different Series. A new issuance of Contracts will commence at least two business days prior to the next Expiration Date.

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

(i) WEEKLY INITIAL JOBLESS CLAIMS BINARY CONTRACTS

(1) At the commencement of trading in a Jobless Claims Binary Contract, Nadex shall list all eligible Payout Criteria in a range of five (5) consecutive increments between 2,000 and 30,000, as determined by Nadex, with the maximum value of the Payout Criteria not to exceed 1,000,000 and the minimum value of the Payout Criteria not to fall below zero (0), and the contract payout criteria of greater than or equal to (\geq). For example, Nadex may list the following range of Payout Criteria (using a 10,000 increment): 607,000, 617,000, 627,000, 637,000, and 647,000. The following week, Nadex may list the following range of Payout Criteria (using a 5,000 increment): 610,000, 615,000, 620,000, 625,000, and 630,000.

(2) In each case above, “X” equals the first Payout Criteria listed. In the first example above, this is 607,000; in the second example above, this is 610,000.

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(ii) Nadex may list additional Initial Jobless Claims Binary Contract with different ranges of Payout Criteria on a discretionary basis in accordance with the CEA and Commission Regulations.

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

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

(i) LAST TRADING DATE – The Last Trading Date in a Series is the same day as the Expiration Date. The Initial Claims 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 Initial Jobless Claims number is released by the Source Agency.

(k) EXPIRATION DATE – The Expiration Date of the Contract shall be the date on which the Initial Jobless Claims 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 Initial Jobless Claims Binary Contract is \$100.

(m) EXPIRATION VALUE – The Expiration Value is the Initial Jobless Claims 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 12.73 NONFARM PAYROLLS BINARY CONTRACTS

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

(b) UNDERLYING – The Underlying for this Class of Contracts is the seasonally adjusted monthly change in the Nonfarm Payrolls release last reported by the Source Agency.

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

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

(e) ISSUANCE – For each planned release by the Source Agency of the Underlying, Nadex will issue various Contracts, each of a different Series. A new issuance of Contracts will commence at least three business days prior to the next Expiration Date.

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

(i) MONTHLY NONFARM PAYROLLS BINARY CONTRACTS

(1) At the commencement of trading in a Nonfarm Payrolls Binary Contract, Nadex shall list all eligible Payout Criteria in a range of five (5) consecutive increments between 15,000 and 150,000, as determined by Nadex, with the maximum value of the Payout Criteria not to exceed 1,000,000 and the minimum value of the Payout Criteria not to fall below -1,000,000, and the contract payout criteria of greater than or equal to (\geq). For example, Nadex may list the following range of Payout Criteria (using the 75,000 increment): -748,000, -673,000, -598,000, -523,000, and -448,000. For the next issuance, Nadex may list the following range of Payout Criteria (using a 50,000 increment): 200,000, 250,000, 300,000, 350,000, and 400,000.

(2) In each case above, “X” equals the first Payout Criteria listed. In the first example above, this is -748,000; in the second example above, this is 200,000.

(ii) Nadex may list additional Nonfarm Payrolls Binary Contract with different ranges of Payout Criteria on a discretionary basis in accordance with the CEA and Commission Regulations.

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

(h) POSITION LIMIT – There are currently no Position Limits for the \$100 Nonfarm Payrolls Binary Contract.

(i) LAST TRADING DATE – The Last Trading Date in a Series is the same day as the Expiration Date. The Nonfarm Payrolls 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 Nonfarm Payrolls number is released by the Source Agency.

(k) EXPIRATION DATE – The Expiration Date of the Contract will be the date on which the Nonfarm Payrolls 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 Nonfarm Payrolls Binary Contract is \$100.

(m) EXPIRATION VALUE – The Expiration Value is the level of the Nonfarm Payrolls 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.