

March 2, 2010

Via E-Mail: [submissions@cftc.gov](mailto:submissions@cftc.gov)

Mr. David Stawick  
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 its Rules Relating to Position Limits for Market Makers in the Wall Street 30, US Tech 100, US 500 and US SmallCap 2000 Binary Contracts – Submission pursuant to Commission Regulation 40.6(a)**

Dear Mr. Stawick:

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”) hereby submits to the Commission its intent to amend its Rules pertaining to position limits for approved market makers engaged in bona fide market-making activity for the Wall Street 30, US Tech 100, US 500 and US SmallCap 2000 Binary Contracts (Rules 12.89, 12.90, 12.91 and 12.99 respectively). Nadex intends to make these changes effective for the beginning of trade day Monday, March 7, 2011.

The aforementioned amendments are summarized in Exhibit A. The applicable rule amendments are defined in Exhibit B. Any rule deletions are stricken out while the amendments and/or additions are underlined.

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

Nadex hereby certifies that the revisions contained herein comply with the Act and the Commission Regulations adopted thereunder.

Should you have any questions regarding the above, please do not hesitate to contact me by telephone at (312) 884-0171 or by email at [tim.mcdermott@nadex.com](mailto:tim.mcdermott@nadex.com).

Sincerely,



Timothy G. McDermott  
General Counsel and Chief Regulatory Officer

CC: [DMOSubmission@cftc.gov](mailto:DMOSubmission@cftc.gov)  
Jon Hultquist – CFTC (Acting Branch Chief, DMO, Chicago)  
Tom Leahy – CFTC  
Riva Adriance – CFTC  
Nancy Markowitz – CFTC  
Phil Colling -- CFTC

Yossi Beinart - Nadex

**EXHIBIT A**

<b>Rule</b>	<b>Asset</b>	<b>Duration/ Close Time</b>	<b>Action</b>	<b>Effective Date</b>
4.4	Obligations of Market Makers	N/A	Exempt market makers from current position limits in Wall Street 30, US Tech 100, US 500, and US SmallCap 2000 Binary Contracts; establish regime for Alternative Position Limits	03/07/2011
5.20	Speculative Position Limits	N/A	Amend language to reference Alternative Position Limits	03/07/2011

## **EXHIBIT B**

### **Amendment of Rules 4.4 and 5.20**

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

RULE 1.1 – 4.3 [Unchanged]

RULE 4.4 OBLIGATIONS OF MARKET MAKERS

(a) - (c) [Unchanged]

(d) Alternative Position Limits for Certain Binary Contracts

- (i) Approved market makers who are engaged in bona fide market-making activity shall be exempt from the position limits for those Binary Contracts defined in Rules 12.89 (Wall Street 30), 12.90 (US Tech 100), 12.91 (US 500) and 12.99 (US SmallCap 2000) of these Rules. Instead, such market makers shall be subject to Alternative Position Limits of twice the limit identified for such Binary Contract in Chapter 12. In addition, such Alternative Position Limits shall apply not to the entire class of Binary Contracts, but to each Binary Contract in that Class (i.e., per strike).
- (ii) A market maker taking advantage of this exemption and an Alternative Position Limit must, within 1 business day following a request by Nadex's Compliance Department, provide the Nadex Compliance Department with a trade register detailing all futures trading activity in any account owned or controlled by the market maker in the futures contract underlying a Binary Contract during the 15 minutes immediately before and after any expiration time identified by Nadex's Compliance Department in the request.

RULE 5.1 – 5.19 [Unchanged]

RULE 5.20 SPECULATIVE POSITION LIMITS

(a) Nadex has imposed Speculative Position Limits on certain Classes of Contracts as defined in Chapter 12 of these Rules, subject to the exemption and Alternative Position Limits for certain Market Makers defined in Rule 4.4(d). Any Trading Member or FCM Customer who exceeds a Speculative Position Limit or, if applicable, an Alternative Position Limit shall be deemed in violation of this Rule 5.20. In addition, any Trading Member (except for approved Market Makers) or FCM Customer entering bids or offers, if accepted, which would cause that Trading Member or FCM Customer to exceed the applicable Speculative Position Limit shall be in violation of this Rule. In the case of any violation of this Rule by a FCM Customer, that Customer's FCM Member shall be held directly responsible for such violation.

(b) If a Member fails to reduce any position in a manner and time as directed by Nadex, Nadex shall have the authority to liquidate the applicable position to a level below the defined

Speculative Position Limit stipulated under the relevant Class of Contracts in Chapter 12 of these Rules or, if applicable, the Alternative Position Limit pursuant to Rule 4.4(d).

(c) In addition to the restrictions and requirements imposed in Section 5.20(a) and (b), the first violation of a Speculative Position Limit or Alternative Position Limit by a Member or FCM Customer shall result in a letter of warning to be issued by the Nadex Compliance Department to the Trading Member or FCM Customer and its FCM Member.

(d) In addition to the restrictions and requirements placed in Section 5.1920(c), any subsequent violation of a Speculative Position Limit or Alternative Position Limit within the preceding 12 months by a Trading Member or FCM Customer shall result in the issuance of a second letter of warning to the Trading Member or FCM Customer and its FCM Member and the suspension or revocation of membership privileges in accordance with Chapter 9 of these Rules.

(e) Position limits shall apply to i) all positions in accounts for which any Person by power of attorney or otherwise, directly or indirectly holds positions or controls trading, and ii) positions held by two or more Persons acting pursuant to an express or implied agreement or understanding the same as if the positions were held by, or the trading of the position were done by, a single individual.

RULE 6.1 – 12.99 [Unchanged]

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