

## Rule Self-Certification

August 5, 2013

Office of the Secretary  
Commodity Futures Trading Commission  
Three Lafayette Center  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

Re: Regulation §40.6 Submission Certification  
Amending NFX References  
Reference File: SR-NFX-2013-13

Ladies and Gentlemen:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Sections 40.6 of the regulations promulgated by the Commodity Futures Trading Commission under the Act, the NASDAQ OMX Futures Exchange, Inc. (“Exchange”) is amending the text of various Rules, Appendices and the Fee Schedule to replace references to “NFX” with “the Exchange” and references to the “NFX Best Bid and Offer” with the “NASDAQ Best Bid and Offer.” The amended rule text will be effective on August 21, 2013.

Currently, there are several references throughout the Rulebook, including the Appendices to the Rulebook and the Fee Schedule to “NFX.” The term “NFX” refers to NASDAQ OMX Futures Exchange, Inc. The Exchange has determined to replace this acronym with the defined term “Exchange.”<sup>1</sup> Additionally, the term “NFX Best Bid and Offer” is being replaced with “NASDAQ Best Bid and Offer” when referring the BBO or best bid and/or offer on the Exchange’s Order Book. The Exchange believes that replacing “NFX” with the defined term “Exchange” is consistent with the remainder of the Rulebook which uses that term. Also, by utilizing the word “NASDAQ” when referring to the BBO or the best bid and/or offer on the Exchange’s Order Book provides greater clarity to the Rules. The Exchange also proposes to remove certain unnecessary references to NFX and update an email address in Appendix C with this rule change. The amended text is attached as Exhibit A.

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<sup>1</sup> See Chapter I, Section 1. The term “Exchange” means NASDAQ OMX Futures Exchange, Inc. and when used with reference to the administration of any By-Law or Rule of the Exchange, means either the Board of Directors or the officer, employee, agent or committee to whom appropriate authority to administer such provision has been delegated by the Board.

There were no opposing views among the NFX's Board of Directors, members or market participants. NFX hereby certifies that the enclosed amendments comply with the Commodity Exchange Act and regulations thereunder. The Exchange also certifies that notice of pending certification and a copy of this submission have been concurrently posted on the Exchange's website at <http://www.nasdaqomxtrader.com/NasdaqFutures>.

Regards,

A handwritten signature in black ink that reads "Daniel R. Carrigan". The signature is written in a cursive style with a large, sweeping initial "D".

Daniel R. Carrigan  
President

cc: Mr. J. Goodwin  
National Futures Association

## Exhibit A

*New text is underlined; deleted text is in brackets.*

### NASDAQ OMX Futures Exchange [(NFX)—]Rules

#### DEFINITIONS

#### Chapter I Definitions and Governance of the Exchange

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#### Section 1 Definitions

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**Clearing Futures Participant.** The term "Clearing Futures Participant" means a[n NFX] Futures Participant that is also a member of The Options Clearing Corporation with the ability to clear Contracts on behalf of itself, its Customers, and Non-Clearing Futures Participants.

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**[NFX]NASDAQ Best Bid and Offer.** The term "[NFX]NASDAQ Best Bid and Offer" or "BBO" means for each Contract then listed and trading on [NFX]the Exchange, the current disseminated highest bid and lowest offer in the Order Book excluding those Orders that at the time of receipt are matchable and are due execution.

\* \* \* \* \*

#### Chapter II Membership Rules

#### Section 1 Qualification and Participation of Futures Participants

(a) Only a Futures Participant may transact business on [NFX]the Exchange. A prospective Futures Participant must:

i. – ii. No Change

(b) No Change

\* \* \* \* \*

#### Section 6 Executive Representative

Each Futures Participant shall appoint and certify to the Membership Department one Executive Representative who shall represent and act for the Futures Participant in all the affairs of the Exchange; provided, however, that other representatives of the Futures Participant may also serve on the [NFX]Exchange Board or [NFX]Exchange committees or otherwise take part in the affairs of the Exchange. A Futures Participant may change its Executive Representative or appoint a substitute for its Executive Representative upon giving notice thereof to the Membership Department via electronic process or such other process as the Exchange may

prescribe. An Executive Representative of [NFX]the Exchange shall be authorized to act on behalf of the Futures Participant. Each Executive Representative shall maintain an Internet electronic mail account for communication with the Exchange and shall update contact information as prescribed by the Exchange. Each Futures Participant shall review and, if necessary, update its Executive Representative designation and contact information in the manner prescribed by the Exchange.

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## Chapter IV Trading System

\* \* \* \* \*

### Section 3 Acceptable Orders

Orders entered into the Trading System for display and/or execution, as appropriate, are executable against marketable contra-side Orders in the Trading System.

(a) Types of Orders accepted by the Trading System as follows:

(i) - (vi) No Change

(vii) *Contingency Orders*. A "Contingency Order" is an Order that is contingent upon a condition being satisfied while the Order remains in the Trading System, and may be one of the following Order types:

(i) – (iv) No Change

(v) *Post-Only Order*. A "Post-Only Order" is an Order that will not remove liquidity from the System. Post-Only Orders are to be ranked and executed on the Exchange or cancelled, as appropriate. Post-Only Orders are evaluated at the time of entry with respect to locking or crossing other Orders. If a Post-Only Order would lock or cross an Order on [NFX]the Exchange, the Post-Only Order will be re-priced to one minimum price increment below the current low offer (for bids) or above the current best bid (for offers). If the [NFX]NASDAQ Best Offer is one minimum price increment greater than zero, a Post Only Order to buy would be rejected. Participants may choose to have their Post-Only Orders returned whenever the Order would be placed on the book at a price other than its limit price. Post-Only Orders may not be Wait Orders. Post-Only Orders may not have a designation of Good-`Till-Cancelled or Immediate or Cancel.

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### Section 9 Acceptable Trade Range

(A) The Trading System will calculate an Acceptable Trade Range, which for purposes of this Rule is a limit to the range of prices at which an Order will be permitted to execute for each Contract, as designated by the Exchange for a Contract. The Acceptable Trade Range is calculated by taking the reference price, plus or minus a value to be determined by the Exchange (i.e., the reference price - (x) for sell Orders and the reference price + (x) for buy Orders). Upon

receipt of a new Order, the reference price is the [NFX]NASDAQ BBO or the last price at which the Order is posted whichever is higher for a buy Order or lower for a sell Order.

(B) If an Order reaches the outer limit of the Acceptable Trade Range (the "Threshold Price") without being fully executed, it will be posted at the Threshold Price for a brief period, not to exceed one second ("Posting Period"), to allow more liquidity to be collected. Upon posting, either the current Threshold Price of the Order or an updated [NFX]NASDAQ BBO for buy Orders or for sell Orders (whichever is higher for a buy Order/lower for a sell Order) then becomes the reference price for calculating a new Acceptable Trade Range. If the Order remains unexecuted, a new Acceptable Trade Range will be calculated and the Order will execute or post up to the new Acceptable Trade Range Threshold Price. This process will repeat until the Order is executed, cancelled, or posted at its limit price.

(C) No Change

\* \* \* \* \*

## **Chapter V Trading Procedures and Standards**

### **Section 1 Authorized Traders and Trader IDs**

(a) – (b) No Change

(c) Each Futures Participant, in a form and manner prescribed by the Exchange, shall include an assigned Trader ID with every Order from that Futures Participant that is submitted to [NFX]the Exchange. Additionally, Futures Participants shall mark each Order entered into the Exchange's Trading System with a CTI Code, Origin Code and Clearing Account Type Indicator and such other information as may be prescribed by the Exchange.(i) Each Futures Participant is responsible for all Orders submitted through its Futures Participant Exchange Account by any Persons associated with that Futures Participant. Each Futures Participant and Authorized Trader shall not knowingly enter, or cause to be entered bids or offers into the Trading System other than in good faith for the purpose of executing bona fide trades.

(d) – (h) No Change

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### **Section 15 Automated Order-Routing Systems**

(a) If any Futures Participant provides any Customer, other Futures Participant, or any other Person access to an electronic or automated order-routing system that enables the submitting of Orders to [NFX]the Exchange through the Futures Participant's system, then the Futures Participant must:

(1) – (4) No Change

(b) A Futures Participant is fully responsible for all Orders submitted directly to [NFX]the Exchange through its electronic or automated Order-routing system as if the Futures Participant had placed each Order itself.

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### **Section 17 Restrictions on Message Traffic**

At any time, the Exchange may, in its sole discretion, restrict the electronic transmissions or submissions to the Trading System by Futures Participants of Orders, modifications or cancellations of Orders, trade reports, and other messages or vice versa ("Message Traffic") to safeguard the operations or integrity of [NFX]the Exchange or to preserve market integrity, fair and orderly trading, or the public interest or for the protection of investors.

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### **Section 19 Trading Restrictions and Suspensions**

(a) No Change

(b) Any trading restrictions or suspensions imposed pursuant to Section (a) may include without limitation:

- (1) a change in the closing time and/or the time for determining the Daily Settlement Prices for that Trading Day; and/or
- (2) a setting of Daily Settlement Prices by the President or his delegate based on the following:
  - (i) the mid-point of [NFX]the NASDAQ Best Bid and Offer for the Contract Month immediately before the restriction or suspension;
  - (ii) if the mid-point of the [NFX]NASDAQ Best Bid and Offer appears unrepresentative of fair market value, then the [NFX]NASDAQ Best Bid and Offer will be adjusted by the last representative bid or offer; or
  - (iii) any other methodology deemed appropriate by the President or his delegate under the circumstances.

(c) – (e) No Change

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### **Section 21 Proprietary Nature of Market Data**

All Futures Participants, Authorized Traders and all employees, agents, vendors, and other Persons affiliated with the foregoing:

- (a) understand and acknowledge that the Exchange has a proprietary interest in Market Data, the [NFX]NASDAQ Best Bid and Offer, and all related trade data and settlement prices relating to all Contracts traded through the Trading System and the Exchange; and
- (b) No Change

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*Chapter VIII Metals*

**10 ounce gold futures contract**

Section 1 Product Description

(a) – (e) No Change

(f) This 10 Troy ounce gold futures contract shall be traded on [NFX]the Exchange subject to the electronic trading Rules and procedures at Chapters IV and V of the Rules.

(g) No Change



**Appendix A – Guidance Related to Pre-Trade Risk Parameters**

This guidance is to remind Futures Participants and Authorized Traders of their responsibilities for the orders placed on the [NFX]Exchange's Trading System and provide interpretative guidance regarding pre-trade risk controls that Futures Clearing Participants should have in place and actively use to demonstrate adequate exercise of due diligence for the placement of orders.

*Trading Rules*

[NFX]Exchange Rules provide that Futures Participants and Authorized Traders shall be responsible and accountable for the orders placed on the [NFX]Exchange's Trading System. Specifically, Chapter V, Section 18 prohibits misuse of the Trading System and states that “[i]t shall be deemed an act detrimental to the interest and welfare of the Exchange to either willfully or negligently engage in unauthorized access to the Trading System, to assist any individual in obtaining unauthorized access to the Trading System, to trade on the Trading System without proper authorization as described in these Rules, to alter the equipment associated with the Trading System, to interfere with the operation of the Trading System, to use or configure a component of the Trading System in a manner which does not conform to Exchange’s agreements and procedures to intercept or interfere with information provided on or through the Trading System, or in any way to use the Trading System in a manner contrary to the Rules of the Exchange.” Further, Chapter V, Section I provides that, “[e]ach Futures Participant is responsible for all Orders submitted through its Futures Participant Exchange Account by any Persons associated with that Futures Participant. Each Futures Participant and Authorized Trader shall not knowingly enter, or cause to be entered bids or offers into the Trading System other than in good faith for the purpose of executing bona fide trades.”

*Pre-Trade Risk Parameters*

\* \* \* \* \*

» Maximum Order/Quote Size – Maximum allowable order or quote size, based on volume, which may be sent to [NFX]the Exchange for a given Group, Firm or Trader ID. Each bid and offer of a quote is considered independent of one another.

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*Contact Information*

NASDAQ OMX Futures Exchange Market Operations at [NFX]Futures@nasdaqomx.com or (215) 496-1571.

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**Appendix C- Error Trade Policy**

The [NFX]Exchange's error trade policy is designed to preserve the integrity of Contracts transacted on the Exchange by striking an appropriate balance between trade certainty and erroneous price discovery. The policy provides a mechanism to promptly address transactions that are executed at obviously erroneous prices substantially inconsistent with the last trade price of the contract or alternative determination of the contract's fair value. This policy does not relieve market participants from potential financial responsibility or liability for the execution of trades that are deemed or asserted to be an "error trade" if their actions caused financial loss to other parties.

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**NASDAQ OMX FUTURES EXCHANGE, INC. [("NFX")] FEE SCHEDULE**

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**PREFACE**

For purposes of assessing fees, the following references should serve as guidance.

The term "**Customer**" applies to any transaction that is identified by a[n NFX] Futures Participant with a Customer Type Indicator ("CTI") code 4.

The term "**Market Maker**" means a[n] Futures Participant, approved by the Exchange to undertake rights and obligations to facilitate an orderly and liquid market, as a Market Maker, and quote continuous two-sided markets for its own account pursuant to Chapter IV, Section 10. The term "Market Maker" applies to any transaction which occurs in an account assigned by the Exchange for the purpose of transacting orders as a Market Maker.



The term "**Firm**" applies to any transaction that is identified by a[n NFX] Futures Participant with a CTI code of 1, 2 or 3 and not in an account designated as market maker or liquidity provider.

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### **Section III - Regulatory Fee**

\$175 per month\*

\* This Regulatory Fee would be waived for [NFX]Futures Participants who incur a minimum of \$175 in transaction fees in a billing month. Market Makers are exempt from the Regulatory Fee.

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