

## Rule Self-Certification

September 28, 2012

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

Re: Price Adjustments and Cancellations  
Reference File SR-NFX-2012-28

Ladies and Gentlemen:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Section 40.6 of the regulations promulgated by the Commodity Futures Trading Commission (“CFTC”) under the Act, the NASDAQ OMX Futures Exchange, Inc. (“NFX” or “Exchange”) is amending Rule E26 titled “Transaction Nullifications or Modifications,” adopting a new Rule 2001N titled “Price Adjustments and Cancellations,” and amending the lettering for current Rule 2001N to 2001O titled “Limitation of Liability For NFX XL.” These amendments will be effective on October 16, 2012, which is eleven business days from the date of filing of this proposal. The text of the amendments is set forth in Exhibit A.

NFX has determined to add the new language to comply with the requirements of the CFTC’s new Core Principles and Other Requirements for Designated Contract Markets, which were published in the Federal Register on June 19, 2012.<sup>1</sup> In this rulemaking, the CFTC adopted new and amended rules, guidance, and acceptable practices in its Part 38 rules to implement certain statutory provisions enacted by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). This CFTC rulemaking establishes extensive new requirements applicable to the operation of designated contract markets (“DCMs”) including NFX.

Specifically, §38.157 under Core Principle 2 (Compliance with Rules) provides that DCMs shall have the authority to adjust trade prices or cancel trades when necessary to mitigate market disrupting events caused by malfunctions in its electronic trading platform(s) or errors in orders submitted by members and market participants. The Commission reasoned that this section “codifies jurisdictional requirements necessary to effectuate the statutory mandate of Core Principle 2 that a board of trade ‘shall have the capacity to detect, investigate, and apply

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<sup>1</sup> See 77 FR 36612 (June 19, 2012), available at:  
<http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2012-12746a.pdf>

appropriate sanctions to any person that violates any rule of the contract market.’” The Exchange is amending Rule E26 to comply with this Core Principle by adding language which would permit the Exchange to adjust trade prices or cancel trades when necessary to mitigate market disrupting events caused by malfunctions in its electronic trading platform or errors in orders submitted by members and member organizations.

In addition, the Exchange is proposing other amendments to Rule E26 to further clarify NFX’s rules with regard to price adjustments and cancellations. The Exchange is amending Rule E26 to provide that the Exchange, in its sole discretion, may either nullify a transaction or adjust the execution price of a transaction in a Contract that has taken place outside the non-reviewable range as defined in the relevant Contract specifications. The Exchange believes that this language is more specific and amends the term “No-Bust Range” with “non-reviewable range.” The Exchange added a new Rule 2001N to provide that the non-reviewable range for XAU/USD Spot Gold futures is \$10.00 per troy ounce, (\$5.00 greater than the immediately preceding offer or \$5.00 lower than the immediately preceding bid) as long as either the preceding bid and/or offer occurred within one minute prior to the trade in question. If there is no preceding bid or offer within one minute prior to the trade in question, then the spot gold market will be referenced for determination. The Exchange will continue to make such price adjustments or trade cancellations transparent to the market in reporting those trades.

The Exchange is also proposing to add language to Rule E26(e) to permit mutual agreement among parties with respect to price cancellations and adjustments. The new language provides that if a trade was executed at an erroneous price, the affected parties, by mutual consent, may submit such a determination to the Exchange within a ten minute timeframe. These amendments are similar to current rules in place today at the CME Group (“CME”). Also, the Exchange is amending current Rule E26(e), which will be amended to E26(f), to provide that the Exchange may, within its sole discretion, nullify or modify a transaction in a Contract if an error occurs as a result of a *verifiable* disruption or malfunction of NFX XL or its related communication or other systems. The Exchange believes that adding the word “verifiable” provides greater specificity to the rule. The Exchange also made other minor technical amendments to current Rule 2001N to amend the lettering to Rule 2001O.

This filing is made pursuant to approval from the NFX Board of Directors on September 27, 2012. There were no opposing views among NFX’s Board of Directors, members or market participants. NFX hereby certifies that the amendment complies with the 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/Micro.aspx?id=PBOToverview>.

Regards,



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 Rules

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#### Rule E26. Transaction Nullifications or Modifications

(a) The Exchange, in its sole discretion, may either nullify a transaction or adjust the execution price of a transaction in a Contract that (1) has taken place outside the ["No-Bust Range"] non-reviewable range as defined in the relevant Contract specifications and (2) which the Exchange determines has taken place at an unrepresentative price or when necessary to mitigate market disrupting events caused by malfunctions in its electronic trading platform or errors in orders submitted by Members and Member Organizations.

(b) When determining whether to nullify a transaction the Exchange may consider one or more of the following factors:

- (1) the opening price levels of the Contract on the NFX XL;
- (2) the price movements in other Contract Months of the same Contract;
- (3) the current market conditions, including levels of activity and volatility;
- (4) the last trade price for the Contract;
- (5) the speed of execution;
- (6) the information regarding price movements in related markets, the release of economic data, or other relevant news immediately before or during the trading session;
- (7) an obvious error;
- (8) the proximity of the trade to the close of the market; and
- (9) the impact of the error transactions on other transactions.

(c) When nullifying a transaction pursuant to Rule E26(a), the Exchange will act as soon as practicable and will promptly notify the Authorized Trader Contacts for the Member Organizations submitting each side of the transaction of any nullification pursuant to this Rule by telephone or any other means that the Exchange deems appropriate.

(d) A Member or Member Organization that executes a transaction in a Contract in error, at an unrepresentative price which is outside the non-reviewable range ["No-Bust Range"] specified in

the relevant Contract specifications, may, within 10 minutes of the Order execution, contact the Exchange to seek to modify or nullify the transaction pursuant to Rule E26(a).

(e) Mutual Agreement. The determination as to whether a trade was automatically executed at an erroneous price may be made by mutual agreement of the affected parties to a particular transaction within ten (10) minutes of the order execution. A trade may be nullified or adjusted on the terms that all parties to a particular transaction agree. In the absence of mutual agreement by the parties, a particular trade may only be nullified or adjusted when the transaction results from an obvious error as provided in this Rule.

([e]f) The Exchange may, within its sole discretion, nullify or modify a transaction in a Contract if an error occurs as a result of a verifiable disruption or malfunction of NFX XL or its related communication or other systems.

([f]g) The Exchange will notify all Authorized Trader Contacts as soon as practicable (through means deemed appropriate by the Exchange) of (1) trades that the Exchange is investigating pursuant to this Rule and (2) trades that the Exchange has modified or nullified pursuant to this Rule.

([g]h) The Exchange's nullification or modification of transactions in Contracts pursuant to this Rule is final.

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## **METALS FUTURES CONTRACTS (Rules 2001)**

### **Rule 2001N. Price Adjustments and Cancellations.**

The non-reviewable trading range for XAU/USD Spot Gold futures for purposes of Rule E26 shall be \$10.00 per troy ounce (\$5.00 greater than the immediately preceding offer or \$5.00 lower than the immediately preceding bid) as long as either the preceding bid and/or offer occurred within one minute prior to the trade in question. If there is no preceding bid or offer within one minute prior to the trade in question, then the spot gold market will be referenced for determination.

### **Rule 2001[N]Q. Limitation of Liability For NFX XL**

The limitation of liability provisions in Rule E37 shall apply to XAU/USD Spot Gold futures.

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