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June 14, 2013

Via E-Mail: submissions@cftc.gov

Ms. Melissa Jurgens,
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 Amends its Rulebook to Accommodate Swaps Provisions, Correct Typographical Errors, and Update Certain Rules to Conform to Current Applicable Text in Act and Regulations – Submission pursuant to Commission Regulation §40.6(a)

Dear Ms. Jurgens:

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”, the “Exchange”) hereby submits to the Commission a series of amendments to its rules in connection with a transition in the characterization of its Contracts from the futures regime to the swaps regime.

Following the Dodd-Frank amendments to the Act and the publication of final rules for designated contract markets (“DCMs”) and derivatives clearing organizations (DCOs”), together with new rules establishing the new regulatory regime for swaps, including Parts 22, 43 and 45, Nadex and CFTC Staff have discussed the classification of the Binary Option and Spread Contracts that to date have been listed and cleared under a futures-based regulatory regime. Based on these discussions and CFTC Staff’s conclusion that Nadex Contracts are deemed to be “swaps” under Section 1a(47) of the Act, Nadex is transitioning to a swaps-based regulatory regime. In this regard, Nadex’s contracts will not change in economic substance in any respect – these Binary Option and Spread Contracts will continue to be fully collateralized contracts designed for retail traders that are listed on the Nadex DCM

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and cleared by the Nadex DCO. However, certain changes are required with respect to how customer funds are held, what reporting obligations Nadex has (including reporting to a swap data repository), and what information is required for Members of Nadex that are entities as opposed to individuals. In addition, certain updates to existing Nadex rules are being made to conform to the text of the currently applicable text in the Act and the Regulations. Finally, several typographical or other non-substantive corrections are being made to the Nadex Rules.

Nadex has identified the following DCM Core Principles as potentially being affected by this amendment:

- DCM Core Principle (2): Compliance with Rules. This Core Principle requires that Nadex establish rules to govern its market. Nadex is amending its rules to comport with the requirements for the listing of swaps for clearing by a DCM.
- DCM Core Principle (11): Financial Integrity of Contracts. This Core Principle requires that Nadex establish rules for ensuring the financial integrity of transactions entered on the Exchange. By clarifying that funds of direct Trading Members constitute “Member Property” consistent with the requirements of Part 190 of the Regulations and Section 761 of the Bankruptcy Code, the proposed amendments add certainty to the manner in which those funds will be treated and the protections that they will be afforded in the event of a bankruptcy.
- DCM Core Principle (18): Recordkeeping. Insofar as this Core Principle requires that Nadex maintain records of all activities in a form and manner that is acceptable to the Commission, Nadex’s rule amendments will provide for the reporting to a swap data repository and the associated recordkeeping with respect to that data.

Nadex has identified the following DCO Core Principles as potentially being affected by this amendment:

- DCO Core Principle (B): Financial Resources and (F): Treatment of Funds. These Core Principle require that Nadex possess sufficient financial resources to meet its financial obligations to its members and participants and has standards to protect the safety of member and participant funds. By clarifying that funds of direct Trading Members constitute “Member Property” consistent with the requirements of Part 190 of the Regulations and Section 761 of the Bankruptcy Code, the proposed amendments add certainty to the manner in which those funds will be treated and the protections that they will be afforded in the event of a bankruptcy.
- DCO Core Principle (K): Recordkeeping. Insofar as this Core Principle requires that Nadex maintain records of all activities in a form and manner that is acceptable to the

Commission, Nadex's rule amendments will provide for the reporting to a swap data repository and the associated recordkeeping with respect to that data.

Pursuant to the 10-day filing period under Regulation 40.6(a)(3), Nadex plans to implement these rules on or as soon as possible after trade date July 1, 2013.

Rule changes have been outlined in Exhibit A, and Rule amendments are attached hereto in Exhibit B. Rule amendments have been underlined and deletions have been stricken out.

No substantive opposing views were expressed to Nadex with respect to this emergency action.

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

Nadex hereby certifies that a copy of this amendment 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) 884-0171 or by email at tim.mcdermott@nadex.com.

Sincerely,



Timothy G. McDermott
General Counsel and Chief Regulatory Officer

CC: DMOSubmission@cftc.gov
Jon Hultquist – CFTC (Acting Branch Chief, DMO, Chicago)
Riva Adriance – CFTC
Nancy Markowitz – CFTC
Eileen Donovan – CFTC

Yossi Beinart - Nadex

EXHIBIT A

Rule	Asset	Duration/ Close Time	Action	Effective Date
1.1	Definitions	N/A	Amend definition of “Customer” , “FCM Member” , and “Trading Member”	07/01/2013
3.1	Trading Members – Applications, Classifications, and Privileges	N/A	Amend to reflect swaps and appropriate swap language, include LEI requirement for entities, renumber, correct capitalization error	07/01/2013
3.2	FCM Members – Applications, Classifications, and Privileges	N/A	Correct grammar error, amend to reflect swaps and appropriate swap language	07/01/2013
3.3	Member Obligations	N/A	Amend to reflect swaps and appropriate swap language	07/01/2013
3.4	FCM Member Obligations	N/A	Correct grammar error, amend to reflect swaps and appropriate swap language, renumber	07/01/2013
3.5	Authorized Traders	N/A	Correct grammar error, amend to reflect swaps and appropriate swap language	07/01/2013
4.1	Registration of Market Makers	N/A	Amend to reflect swaps	07/01/2013
4.4	Obligations of Market Makers	N/A	Correct grammar error	07/01/2013
5.2	Trading Member Access to Nadex	N/A	Correct grammar error	07/01/2013
5.4	Trading Contracts – Customers of FCM Members	N/A	Amend to reflect swaps and appropriate swap language	07/01/2013
5.7	Handling of Customer Orders	N/A	Correct grammar error	07/01/2013

5.19	Prohibited Transactions and Activities	N/A	Correct grammar and text error	07/01/2013
6.1	Clearance and Substitution	N/A	Add new rule explaining clearance and novation	07/01/2013
6.2	Settling Contract Trades	N/A	Renumbered Rule, amend to reflect swaps and appropriate swap language	07/01/2013
6.3	Settling Contracts at Expiration	N/A	Renumbered Rule	07/01/2013
6.4	Settling Member Withdrawal Requests	N/A	Renumbered Rule	07/01/2013
6.5	Regulatory Reporting to Swap Data Repository	N/A	Add new rule regarding swap reporting to SDR	07/01/2013
Chap. 8	Investment of Member Account Funds	N/A	Amend to reflect swaps and appropriate swap language	07/01/2013
9.6	Summary Suspension	N/A	Amend to reflect swaps	07/01/2013
11.1	Activities of SRO Employees and Governing Members Who Possess Material, Non-Public Information	N/A	Amended language to reflect that of Commission Regulation 1.59	07/01/2013
11.2	Service on SRO Governing Boards or Committees By Persons with Disciplinary Histories	N/A	Amended language to reflect that of Commission Regulation 1.63	07/01/2013
11.3	Voting by Interested Members of SRO Governing Boards and Various Committees	N/A	Amended language to reflect that of Commission Regulation 1.69	07/01/2013
12.1	Terms that are Uniform Across Contracts	N/A	Add language identifying all Binary and Variable Payout Contracts as 'swaps'	07/01/2013

EXHIBIT B

Amendment of Rules 1.1, 3.1-3.5, 4.1, 4.4, 5.2, 5.4, 5.7, 5.10, 6.1-6.5, 8, 9.6, 11.1-11.3, 12.1

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

RULE 1.1 DEFINITIONS

When used in these Rules:

(a) **“Authorized Trader”** means an individual employed by a Member who is authorized by that Member to have direct access to Nadex, provided the Member maintains supervisory authority over such individual_(s)-trading activities.

(b) **“Binary Contract”** means the right to receive a fixed Settlement Value per contract, from Nadex on the Settlement Date dependent upon whether you are holding a long position or short position in a Binary Contract. If you are holding a long position in a Binary Contract, you have the right to receive a fixed Settlement Value from Nadex on the Settlement Date, if, and only if, the Binary Contract’s Payout Criteria encompasses the Expiration Value at Expiration. Conversely, if you are holding a short position in a Binary Contract, you have the right to receive a fixed Settlement Value if, and only if, the Binary Contract’s Payout Criteria does NOT encompass the Expiration Value at Expiration.

(c) **“Cap”** means the maximum rate, level, amount, measure or other value of the Underlying of a Variable Payout Contract that may be the Expiration Value or the Closing Trade Value. If the actual rate, level, amount, measure, or other value of the Underlying meets or exceeds the Cap at Expiration, the Cap will be the Expiration Value.

(d) **“Class”** means all Contracts of the same Type with the same Underlying.

(e) **“Closing Trade Value”** means the rate, level, amount, measure, or other value of the Underlying of a Variable Payout Contract at which the Contract is closed in a Member’s or Customer’s account.

(f) **“Commodity Futures Trading Commission” or “Commission”** means the Federal regulatory agency established by the Commodity Futures Trading act of 1974 to administer the Commodity Exchange Act.

(g) **“Contract”** means a Variable Payout Contract or a Binary Contract.

(h) **“Customer”** means a Commodity Customer, a Cleared Swap Customer, a FCM Member or a Trading member of Nadex, as the context requires. In this regard,

(i) “Commodity Customer” has the meaning set forth in Commission Regulation 1.3(k);

(ii) “Cleared Swap Customer” has the meaning set forth in Commission regulation 22.1;

(iii) “DCO Customer” has the same meaning as the definition “customer” set forth in Commission Regulation 190.01(l) and section 761(9) of the Bankruptcy Code and includes FCM Members and Trading Members of Nadex.

(i) **“Dollar Multiplier”** means the monetary amount by which the rate, level, amount, measure, or other value of an Underlying of a Variable Payout Contract is multiplied to determine the Settlement Value.

(j) **“End Date”** means the last day on which a delivery month will be used as the Underlying for Nadex contracts.

(k) **“Expiration”** means the time on the Expiration Date established by these Rules at which a Contract expires and the Expiration Value of that Contract is determined.

(l) **“Expiration Date”** means the date established by these Rules on which the Expiration Value of each Contract is determined.

(m) **“Expiration Value”** means the rate, level, amount, measure, or other value of the Underlying at Expiration as calculated and/or published by the Source Agency.

(n) **“FCM Member”** means any Member that is registered with the Commission as a Futures Commission Merchant and as a swap firm and is authorized by Nadex to intermediate ~~customer~~ orders of Commodity Customers or Cleared Swap Customers on the Market.

(o) **“Financial Institution”** means a financial institution as that term is defined in 31 CFR 1010.100(t) that is required to comply with the regulations issued by the United States Department of Treasury under the Bank Secrecy Act including, but not limited to, the anti-money laundering program and customer identification program rules.

(p) **“Floor”** means the minimum rate, level, amount, measure, or other value of the Underlying of a Variable Payout Contract that may be the Expiration Value or the Closing Trade Value. If the actual rate, level, amount, measure or other value of the Underlying meets or falls below the Floor on the Expiration Date, the Floor will be the Expiration Value.

(q) **“Last Trading Day”** means, for a particular Contract, the last date on which that Contract may be traded on the Market.

(r) **“Long Variable Payout Contract”** means (i) the right to receive at the time the Contract is closed or on the Settlement Date any positive number resulting from subtracting the Opening Trade Value from (A) the Closing Trade Value, if the Variable Payout Contract was closed by an offsetting transaction before Expiration, or (B) the Expiration Value, if the Variable Payout Contract was held to Expiration, and then multiplying the resulting figure by the Dollar Multiplier and (ii) the obligation to pay at the time the contract is closed or on the Settlement Date any positive number resulting from subtracting from the Opening Trade Value (A) the Closing Trade Value, if the Variable Payout Contract was closed by an offsetting transaction before Expiration, or (B) the Expiration Value, if the Variable Payout Contract was held to Expiration, and then multiplying the resulting figure by the Dollar Multiplier.

(s) **“Market Maker”** means a Member that is granted certain ~~the~~ privileges in exchange for assuming certain responsibilities as set forth in Chapter 4 of these Rules for the purpose of creating liquidity for certain Classes of Contracts.

(t) **“Member”** means a Person who is approved by Nadex to be a Trading Member or a FCM Member and who is bound by these Rules as they may be amended from time to time.

(u) **“Opening Trade Value”** means the rate, level, amount, measure, or other value of the Underlying of a Variable Payout Contract at which the Contract is opened in a Member’s account.

(v) **“Payout Criterion”** of a Contract means the Expiration Value or range of Expiration Values that will cause that Contract to pay a Settlement Value to the holder of a long position or the holder of a short position in such Contract. The holder of a long or short position in a Contract that receives a Settlement Value is considered to be “in-the-money” while the holder of either a long or short position in a Contract that does NOT receive a Settlement Value is considered to be “out-of-the-money”.

(w) **“Person”** means an individual, sole proprietorship, corporation, limited liability company, partnership, trust, or any other entity.

(x) **“Regulatory Agency”** means any government body, including the Commission and Securities and Exchange Commission, and any organization, whether domestic or foreign, granted authority under statutory or regulatory provisions to regulate its own activities and the activities of its members, and includes Nadex, any other clearing organization or contract market, any national securities exchange or clearing agency, the National Futures Association (“NFA”) and the Financial Industry Regulatory Authority (“FINRA”).

(y) **“Series”** means all Contracts of the same Class having identical terms, including Payout Criterion and Expiration Date.

(z) **“Settlement Date”** means the date on which money is paid to the account of a Member who has the right to receive money pursuant to a Variable Payout Contract or Binary Contract held until

Expiration, and on which money is paid from the account of a Member who is obligated to pay money pursuant to a Variable Payout Contract held until Expiration. Unless otherwise specified in these Rules, the Settlement Date is the same day as the Expiration Date.

(aa) **“Settlement Value”** means the amount paid to the holders of in-the-money Contracts. The minimum Settlement Value of a Binary Contract is \$100. The Settlement Value of a Variable Payout Contract is determined as described in the definition for Long and Short Variable Payout Contracts.

(bb) **“Short Variable Payout Contract”** means (i) the right to receive at the time the Contract is closed or on the Settlement Date any positive number resulting from subtracting from the Opening Trade Value (A) the Closing Trade Value, if the Variable Payout Contract was closed by an offsetting transaction before Expiration, or (B) the Expiration Value, if the Variable Payout Contract was held to Expiration, and then multiplying the resulting figure by the Dollar Multiplier and (ii) the obligation to pay at the time the Contract is closed or on the Settlement Date any positive number resulting from subtracting the Opening Trade Value from (A) the Closing Trade Value, if the Variable Payout Contract was closed by an offsetting transaction before Expiration, or (B) the Expiration Value, if the Variable Payout Contract was held to Expiration, then multiplying the resulting figure by the Dollar Multiplier.

(cc) **“Source Agency”** means the agency that publishes the Underlying economic indicator and/or Expiration Value for any Contract.

(dd) **“Speculative Position Limits,” or “Position Limit”** means the maximum position, either net long or net short, in one Series or a combination of various Series of a particular Class that may be held or controlled by one Member as prescribed by Nadex and/or the Commission.

(ee) **“Start Date”** means the date on which a new delivery month will be used as the Underlying for Nadex contracts.

(ff) **“Trade Day”** means the regular trading session on any given calendar date and the evening session, if any, on the immediately preceding calendar date, as specified in Rule 5.11.

(gg) **“Trading Member”** means a Person who has been approved by Nadex to trade directly and not through a FCM Member on the Market, and does not include any FCM Member.

(hh) **“Type”** means the classification of a Contract as a Variable Payout Contract or a Binary Contract.

(ii) **“Underlying”** means the index, rate, risk, measure, instrument, differential, indicator, value, contingency, occurrence, or extent of an occurrence the Expiration Value of which determines whether (and, in the case of a Variable Payout Contract, to what extent) a Contract is in-the-money.

(jj) **“Variable Payout Contract”** means a Long Variable Payout Contract and/or a Short Variable Payout Contract (such Variable Payout Contracts are also referred to as “Spread(s)” or “Narrow Spread(s)”).

(kk) **“12PM”** or **“12:00 PM”** means 12:00 Noon

RULES 2.1. – 2.10 [UNCHANGED]

RULE 3.1 TRADING MEMBERS - APPLICATIONS, CLASSIFICATIONS, AND PRIVILEGES

(a) To be eligible to become a Trading Member:

(i) An applicant who is an individual, must:

- 1) reside in the United States;
- 2) provide Nadex with a valid Social Security Number;
- 3) have an account or accounts in the Trading Member’s name with a Financial Institution that the Trading Member will use to fund its Nadex account at the Nadex settlement bank and to receive funds from its Nadex account; and
- 4) certify that
 - (A) the applicant is old enough to enter into a legally enforceable contract;
 - (B) the applicant has read and understands the Nadex Risk Disclosure Statement and Membership Agreement;
 - (C) the applicant agrees to be bound by these Rules; and
 - (D) the applicant will trade only for itself and will not trade as an intermediary for any other person or entity.

(ii) An applicant that is an entity must

- (1) be organized in the United States;
- (2) provide Nadex with a valid Taxpayer Identification Number;
- (3) provide Nadex with a valid Legal Entity Identifier as described in Commission Regulation §45.6;

(3)(4) have an account or accounts in the Trading Member's name with a Financial Institution that the Trading Member will use to fund its Nadex account at the Nadex settlement bank and to receive funds from its Nadex account;

(4)(5) designate Authorized Trader(s) to trade its account and agree that such Authorized Trader(s) will trade only for it and will not trade for him/herself or as an intermediary for any other entity or person;

(5)(6) designate at least one officer who is responsible for supervising all activities of its employees relating to transactions effected on Nadex or subject to Nadex Rules and provide any information Nadex may request regarding such officer(s);

(6)(7) agree to be bound by these Rules; and

(7)(8) certify that

(A) the applicant is validly organized, in good standing, in the United States;

(B) the applicant is authorized by its governing body and, if relevant, documents of organization, to trade commodities, swaps, futures and options contracts, and

(C) the applicant has read and understands the Nadex Risk Disclosure Statement and Membership Agreement.

(b) In order to become a Trading Member, an applicant who is an individual must complete and submit the Nadex on-line membership application, provide Nadex with any other information Nadex may request, and fund its Nadex account by transferring to the ~~customer segregated funds~~ appropriate segregated Cleared Swap Proprietary Account ~~account~~ at Nadex's settlement bank an initial deposit of no less than \$100 in funds from its account at a Financial Institution. An applicant who is an entity must complete an Account Certification, Membership Agreement, and W-9, which collectively shall constitute the membership application, provide Nadex with any other information Nadex may request, and fund its Nadex account by transferring to the ~~customer segregated funds~~ appropriate segregated Cleared Swap Proprietary Account ~~account~~ at Nadex's settlement bank an initial deposit of no less than \$100 in funds from its account at a Financial Institution. All funds deposited by Trading Members shall constitute "Member Property" in accordance with CFTC Regulations.

(c) Submission of a membership application to Nadex constitutes the applicant's agreement to be bound by these Rules and other policies of Nadex.

(d) If an application is approved by Nadex and the Nadex settlement bank confirms to Nadex that the applicant has deposited with it the funds required in paragraph (b) of this Rule, the applicant will be a Trading Member of Nadex and will have the following privileges, which Nadex may revoke, amend, or expand in accordance with, or by amending, these Rules:

(i) to maintain a Nadex account;

(ii) to buy Contracts on the Market using the funds in its Nadex account;

(iii) to sell Contracts on the Market using the funds in its Nadex account;

(iv) to view “real-time” the same best bids to buy and offers to sell the Contracts traded on the Market as are available to all other Members;

(v) to receive access to the Market via the FIX Gateway, provided the Trading ~~m~~Member executes a Nadex ~~Fix~~FIX Connection Agreement, agrees to pay any and all trading and other fees or charges incurred for such access and complies with any requirements or restrictions established by Nadex in connection with such access;

(vi) to view the current trading volume and open interest for the Contracts traded on the Market; and

(vii) to view all non-secure parts of the Nadex website, including these Rules, and descriptions of Contracts traded on the Market as well as all secure parts of the Nadex website outlined above in Rule 3.1(d)(i) – (vi).

(e) Nadex may in its sole discretion approve, deny, or condition any Member application as Nadex deems necessary or appropriate.

(f) A Trading Member that is an individual, may not maintain and/or trade more than one Nadex account. The Authorized Trader(s) of a Trading Member that is an entity, may not maintain a separate Nadex account and/or trade any Nadex account other than that entity’s account.

RULE 3.2 FCM MEMBERS – APPLICATIONS, CLASSIFICATIONS, AND PRIVILEGES

(a) To be eligible to become a FCM Member, an applicant must:

(i) be validly organized, in good standing, in the United States;

(ii) be registered as a Futures Commission Merchant by the National Futures Association;

(iii) have adequate financial resources and credit as determined by Nadex;

(iv) have an account or accounts with a Financial Institution ~~designation~~designated as a settlement bank by Nadex;

(v) ~~designation~~designate at least one officer who is responsible for supervising all activities of its employees relating to transactions effected on ~~the~~ Nadex or subject to Nadex Rules and provide any information Nadex may request regarding such FCM Member~~officer(s)~~;

(vi) submit to Nadex a letter confirming that the applicant will maintain all Customer funds deposited with it in connection with trading any Nadex Contracts in appropriately labeled and ~~customer~~-segregated funds Cleared Swaps Customer Accounts separated from funds of both the FCM Member and futures customers~~Non-Customers~~, as required by Commission regulations;

(vii) agree to be bound by these Rules; and

(viii) meet any other criteria or complete any additional applications that Nadex may request.

(b) Prior to becoming a FCM Member, FCM Member applicants must submit to Nadex:

(i) a guarantee agreement on a form prescribed by Nadex defining the FCM Member's obligation to guarantee the applicant's transactions and those of the applicant's Customers, signed by the FCM Member; and

(ii) an agreement authorizing Nadex to unilaterally debit any accounts identified per Rule 3.2(a)(4)~~iv~~ in accordance with Nadex's rules, policies and procedures and in amounts solely determined by Nadex.

(c) Nadex may in its sole discretion approve, deny, or condition any FCM Member application as Nadex deems necessary or appropriate.

(d) If an FCM Member application is approved by Nadex, the applicant will be a FCM Member of Nadex and will have the following privileges:

(i) to intermediate eCustomer transactions on Nadex;

(ii) to distribute Nadex data to its Customers pursuant to any data distribution agreement with Nadex; and

(iii) to access Nadex's trading systems electronically via a FIX connection.

RULE 3.3 MEMBER OBLIGATIONS

(a) Each Member and any Authorized Trader(s) thereof, must comply with these Rules, applicable provisions of the Commodity Exchange Act, and relevant Commission regulations. Each Member and any Authorized Trader(s) thereof must also cooperate promptly and fully with Nadex, its agents, and/or the Commission in any investigation, call for information, inquiry, audit, examination, or proceeding. Such cooperation shall include providing Nadex with access to information on the activities of such Member and/or Authorized Trader in any referenced market that provides the underlying prices for any Nadex market. Additionally, each Member must update its e-mail address within 24 hours after any change and update all other information provided in its application for membership within five days after that information has changed. If any Member or Authorized Trader(s) thereof fail to satisfy these obligations, Nadex may revoke or suspend the Member's privileges in full or in part. Each Member may also be subject to civil or criminal prosecution.

(b) Each Member consents to allow Nadex to provide all information Nadex has about the Member, including the Member's trading activity, to the Commission or any other Regulatory Agency, law enforcement authority, or judicial tribunal, including (as may be required by information sharing agreements or other contractual, regulatory, or legal provisions) foreign regulatory or self-regulatory bodies, law enforcement authorities, or judicial tribunals.

(c) Each Member and each Member's Authorized Trader(s) are required to review the "~~Exchange~~ Notices" section of the Nadex website to make itself aware of material changes to these Rules or other notices that may affect your rights and obligations as a Member of Nadex.

(d) Each Member must immediately notify Nadex in writing upon becoming aware:

(i) that the Member, any of the Member's officers or any of the Member's Authorized Traders has had trading privileges suspended, access to, or membership or clearing membership in, any Regulatory Agency denied;

(ii) that the Member, any of the Member's officers or any of the Member's Authorized Traders has been convicted of, pled guilty or no contest to, or entered a plea agreement to, any felony in any domestic, foreign or military court;

(iii) that the Member, any of the Member's officers or any of the Member's Authorized Traders has been convicted of, plead guilty or no contest to, or entered a plea agreement to a misdemeanor in any domestic, foreign or military court which involves:

(1) embezzlement, theft, extortion, fraud, fraudulent conversion, forgery, counterfeiting, false pretenses, bribery, gambling, racketeering, or misappropriation of funds, securities or properties; or

(2) any transaction in or advice concerning swaps, futures, options on futures, leveraged transactions or securities;

(iv) that the Member, any of the Member's officers or any of the Member's Authorized Traders has been subject to, or associated with a firm that was subject to regulatory proceedings before any Regulatory Agency;

(v) that the Member, any of the Member's officers or any of the Member's Authorized Traders is currently a party to any investigation or proceeding, the resolution of which could result in an event described in Rule 3.3(d)(i)-(iv);

(vi) of any other material change in any information contained in the Member's membership application;

(vii) of any failure to segregate or maintain adequate Customer segregated funds as required by the Commission when the Member is a FCM Member;

(viii) of becoming subject to early warning reporting under Commission Regulation 1.12;

(ix) of becoming the subject of a bankruptcy petition, receivership proceeding, or the equivalent, or being unable to meet any financial obligation as it becomes due; or

(x) of information that concerns any financial or business developments that may materially affect the Members' ability to continue to comply with participation requirements.

(e) Each Member must diligently supervise all activities of the Member's employees and/or agents, including all Authorized Traders, relating to transactions effected on Nadex. Any violation of these Rules by any employee of a Member may constitute a violation of the Rules by such Member.

(f) A Member is not required to engage in trading activity or maintain a minimum balance in its account after initial funding. If a Member does not engage in any trading activity or maintain a positive balance for a period of one year, however, that Member's account and membership will be terminated. A Person whose membership is terminated pursuant to this provision may re-apply for membership at any time following such termination.

RULE 3.4 FCM MEMBER OBLIGATIONS

In addition to the obligations applicable to all Members, FCM Members shall have the following obligations:

(a) Each FCM Member must at all times maintain the financial resources at or in excess of the amount prescribed by Nadex from time to time as a FCM Member of Nadex. FCM Members may maintain two settlement accounts at Nadex. One settlement account will contain customer funds cleared swaps customer collateral and will be segregated in accordance with CFTC regulations held separately from the members' property and from the funds of such FCM Member held for futures trading ("~~Segregated Funds Settlement~~ Cleared Swaps Customer Account"), while the other settlement

account will be ~~non-segregated~~ hold Member Property of the FCM Member (“~~House Funds Settlement Cleared Swaps Proprietary Account~~”).

(i) As futures commission merchants, all FCM Members must comply with the financial and reporting requirements set forth by the Commission and the National Futures Association, including the requirements contained in Commission Regulations 1.10 and 1.17.

(ii) ~~Segregated Funds Settlement Account~~ Cleared Swaps Customer Account

(1) The ~~Segregated Funds Settlement Account~~ Cleared Swaps Customer Account will contain separate position accounts for each FCM Member Customer.

(2) Each FCM Member shall be required to make an initial deposit of at least \$100,000 of funds constituting the FCM’s residual interest therein, into its FCM Member ~~Segregated Funds Settlement Account~~ Cleared Swaps Customer Account for excess collateral with Nadex.

(3) If the available balance of the FCM Member’s ~~Segregated Funds Settlement Account~~ residual interest in the Cleared Swaps Customer Account falls below \$50,000, the FCM Member must promptly deposit additional funds into the account to increase the available balance of such residual interest to at least \$100,000.

(iii) ~~House Funds Settlement~~ Cleared Swaps Proprietary Account

(1) The ~~House Funds Settlement~~ Cleared Swaps Proprietary Account will contain separate position accounts for any error accounts and test accounts of the FCM Member and/or any personal trading accounts of APs/employees. For the purposes of this Rule 3.4, “APs/employees” includes all associated persons (“APs”) and employees of the FCM Member, as well as those of the FCM Member’s guaranteed introducing brokers (“GIBs”).

(2) Except as set forth herein, a FCM Member shall treat an account of an AP/employee like an account of a FCM Member Customer. An AP/employee shall deposit funds with the FCM Member sufficient to fully collateralize all orders given by the AP/employee to the FCM Member prior to submission of such orders to the Exchange. Such funds, if and when transferred to Nadex, will be held by Nadex in the ~~House Funds Settlement~~ Cleared Swaps Proprietary Account. A FCM Member will be required to ensure that the AP/employee has on deposit with the FCM Member enough funds to fully collateralize the AP’s/employee’s orders before any such order is submitted to Nadex.

(b) Each FCM Member must submit statements of financial condition at such times and in such manner as shall be prescribed from time to time.

(c) Each FCM Member must maintain a separately identifiable position account for each Customer and provide the identifier for such account with every order submitted to Nadex.

(d) Each FCM Member must use due diligence in receiving and handling orders from Customers, submitting such orders onto Nadex on behalf of such Customers, responding to inquiries from Customers about their orders and reporting back to Customers the execution of such orders.

(e) Each FCM Member must maintain policies and procedures acceptable to Nadex that:

(i) with respect to each FCM Customer who is an individual, restricts access to any system through which such individual Customer submits orders to the FCM Member for transmission to Nadex to that individual Customer; and

(ii) with respect to each FCM Customer who is not an individual:

(1) restricts access to any system through which the Customer's orders may be submitted to the FCM Member for transmission to Nadex to such individuals authorized to enter orders on behalf of such Customer;

(2) requires each FCM Customer who is not an individual to have and maintain a CFTC Interim Compliant Identifier or such other Legal Entity Identifier deemed acceptable under CFTC regulations, which identifier shall be provided to Nadex with each order message submitted by such Person;

~~(2)~~(3) identifies each individual authorized to enter orders on behalf of such Customer by a distinct user identification code, which ~~user identification code~~ shall be provided to the FCM Member and Nadex with each order message submitted by such Person; and

~~(3)~~(4) requires the customer to maintain and provide to the FCM Member or Nadex upon request by the FCM Member or Nadex information identifying any individual who has entered orders on behalf of such Customer's account, including but not limited to the individual's name, taxpayer or other identification number, affiliation to the Customer, address and contact information.

(f) No FCM Member may maintain a proprietary trading account for Nadex contracts. Notwithstanding the foregoing, a FCM Member may maintain error accounts and/or test accounts.

(g) An AP/employee may trade Nadex contracts for his or her personal account under the following circumstances:

(i) All such trading of Nadex contracts by an AP/employee shall occur in a trading account held by the FCM Member with which he or she is registered or employed (or, in the case of an AP or an employee of a GIB, the FCM Member who guarantees that IB). No AP/employee may be a direct (i.e., non-intermediated) Trading Member of Nadex or maintain an interest in or control the trading in the account of any direct Trading Member of Nadex.

(ii) The FCM Member must notify Nadex in writing, prior to permitting the FCM Member's AP/employee to submit orders to the Exchange, of the AP's/employee's name and account identifier.

(iii) The FCM Member must notify Nadex immediately, in writing, in the event that the FCM Member's AP/employee is no longer registered and/or employed by the FCM Member.

(h) Prior to a FCM Member accepting any orders from a Customer for submission to Nadex, a FCM Member must first have provided such Customer with the Nadex Risk Disclosure Statement.

(i) Prior to a FCM Member accepting any orders from a Customer for submission to Nadex, Nadex will require certification by the FCM Member to Nadex that its system has the capacity to block cleared swaps customer collateral customer funds in accordance with the requirements of Rule 5.5(b) and demonstrate that capacity to Nadex. In addition, on an annual basis or as otherwise required by Nadex, each FCM Member must represent to Nadex that the portion of the FCM Member's system that blocks cleared swaps customer collateral customer funds has not been changed in any material respect or, if the system has been changed, the FCM Member must identify any such changes and recertify the system's capacity to block cleared swaps customer collateral customer funds in accordance with the requirements of Rule 5.5(b). Finally, each FCM Member agrees to submit to any compliance review by Nadex of its systems in this regard.

(j) With respect to the APs/employees of a FCM Member:

(i) Each FCM Member shall be responsible for diligently supervising the FCM Member's AP's/employee's compliance with all Exchange rules.

(ii) Each FCM Member must maintain a complete and accurate list of all APs/employees of the FCM Member. Such list shall be promptly provided to the Exchange upon request.

(iii) APs/employees must comply with Exchange rules. Each AP/employee shall be bound by Exchange rules to the same extent as if such person were a member.

(iv) Each FCM Member shall be responsible for the acts or omissions of the FCM Member's APs/employees, and may be liable for any fines imposed upon such APs/employees by the Exchange. Any violation of an Exchange rule by any such AP/employee may be considered a violation by the FCM Member.

(k) Each FCM Member must make and file reports in accordance with Commission Regulations in a manner and form and at such times as may be prescribed by the Commission.

(l) Each FCM Member must make and file reports with Nadex at such times, in such manner and form, and containing such information as Nadex may prescribe from time to time.

(m) Each FCM Member, upon a request of Nadex or any Regulatory Agency, must promptly respond to any requests for information.

(n) Each FCM Member may invest cleared swaps customer collateral ~~Customer Funds~~ only in accordance with Commission Regulations 22.2(e)(1) and 1.25.

(o) Each FCM Member must prepare, maintain and keep current those books and records required by the rules of Nadex, the CEA and/or the Commission's Regulations. Such books and records shall be open to inspection and promptly provided to Nadex, its Designated Self Regulatory Organization ("DSRO"), the Commission and/or the U.S. Department of Justice, upon request.

RULE 3.5 AUTHORIZED TRADERS

(a) A Trading Member other than a natural person must register one or more individuals who will be Authorized Trader(s) for the Trading Member's account, ~~which Authorized Traders~~ who are subject to approval by Nadex. The Trading Member and the Authorized Trader must provide Nadex with any information it requests in connection with this registration process. Before an Authorized Trader may enter orders or execute trades on the Market, he/she must acknowledge having read and understood these Rules and agree to comply with these Rules. Only those individuals authorized by the Trading Member and approved by Nadex may enter and execute transactions on the Market for the Trading Member's account.

(b) Nadex may withdraw or suspend the registration of any Authorized Trader if Nadex determines that;

(i) an Authorized Trader has caused the Trading Member to fail to comply with the Rules of Nadex;

(ii) an Authorized Trader is not properly performing the responsibilities of an authorized representative of a Trading Member;

(iii) an Authorized Trader has failed to comply with the conditions set forth in paragraph (a) of this Rule; or

(iv) it is in the best interests of maintaining a fair and orderly market to do so.

(c) If the Trading Member withdraws or Nadex suspends the registration of any Authorized Trader, the Trading Member must ensure that such Authorized Trader does not submit any quotes or orders into the Nadex system.

(d) The registration of an Authorized Trader will be withdrawn upon the written request of the Trading Member for which an Authorized Trader is registered. Such written request shall be submitted in a manner prescribed by Nadex. Until such written request is received and processed by Nadex, or an Authorized Trader's registration is suspended or withdrawn pursuant to paragraph (c) of this Rule, a Trading Member will be responsible for all activity of such Authorized Trader(s) related to Nadex.

RULE 3.6 – 3.8 [UNCHANGED]

RULE 4.1 REGISTRATION OF MARKET MAKERS

(a) Only Trading Members in good standing who are not individuals may become a Market Maker of Nadex. A Member shall file a written Market Maker Application with Nadex. Nadex shall consider such factors as business reputation, financial resources and trading activity in relevant swaps, futures, options or related cash markets in determining whether to approve a Market Maker Application.

(b) The designation of any Market Maker may be suspended or terminated by Nadex at any time and for any reason.

RULE 4.2 – 4.3 [UNCHANGED]

RULE 4.4 OBLIGATIONS OF MARKET MAKERS

(a) General – Transactions of Market Makers should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers shall not make bids or offers or enter into transactions that are inconsistent with such a course of dealings. Ordinarily, Market Makers shall be obligated to do the following:

- (i) trade for the proprietary account of the Market Maker only;
- (ii) maintain at least the minimum capital on deposit with Nadex in accordance with the terms of the applicable Market Maker Agreement;
- (iii) comply with all other terms of the applicable Market Maker Agreement; and
- (iv) maintain two-sided displayed quotes of a minimum designated quantity (“Size”) within a predefined spread (“Bid/Ask Spread”) for a Series of Contracts for a certain period of time throughout the trading day in accordance with the terms of the applicable Market Maker Agreement.

(1) In ordinary market conditions, quotes must be made within a maximum Bid/Ask Spread.

(2) In fast market conditions, Market Makers will be permitted to reduce their size or widen their Bid/Ask Spreads.

(3) Market Makers also will be permitted to reduce their size or widen their Bid/Ask Spreads:

(A) in any Binary Contract within a Designated Class that is so deep in-the-money as to be valued at \$100 offer or so deep out-of-the-money as to be valued at zero bid and

(B) in any Variable Payout Contract within a Designated Class when the underlying for that Variable Payout Contract is outside the range of the Variable Payout Contract.

(b) A Market Maker has a continuous obligation to engage, to a reasonable degree under the existing circumstances, in dealings for the account of the Market Maker when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity or a temporary disparity between the supply of and demand for quotations in a Series of a Designated Class to which the Market Maker is appointed. Without limiting the foregoing, a Market Maker is expected to perform the following activities in the course of maintaining a fair and orderly market;

(i) To post bid and ask quotations in all Designated Classes to which the Market Maker is appointed that, absent changed market conditions, will be honored by the Market Maker.

(ii) To update quotations in response to changed market conditions in all Designated Classes to which the Market Maker is appointed.

(iii) All such Market Maker quotations shall be submitted as "Post-Only orders". In the event a Market Maker has built ~~of a~~ position size equal to or greater than 90% of any applicable position limit in a particular Class or Contract, then that Market Maker may submit non-Post-Only orders (that is, traditional limit orders) for such Class or Contract until the Market Maker's position in such Class or Contract has been reduced to 75% of the applicable position limit, at which point the Market Maker's obligation to submit Post-Only orders will resume.

(c) Like other Members of Nadex, a Market Maker may not place an order to buy or sell a Contract in a Designated Class for which it has not been appointed a Market Maker unless it has the excess funds in its Nadex account necessary to fulfill its obligations under that order.

(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

(1) Rules 12.55 (Japan 225), 12.65 (Wall Street 30), 12.63 (US Tech 100), 12.59 (US 500) and 12.61 (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).

(2) Rules 12.3 (Copper), 12.5 (Gold), 12.7 (Silver), 12.9 (Crude Oil), 12.11 (Natural Gas), 12.49 (FTSE 100) and 12.51 (Germany 30) of these Rules. Instead, such market makers shall be subject to Alternative Position Limits of the limit identified for such Binary Contract in Chapter 12, which limit 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 [UNCHANGED]

RULE 5.2 TRADING MEMBER ACCESS TO NADEX

(a) During the Nadex membership application process, an applicant to become a Trading Member will be required to choose a user identification ("ID") and password. The applicant will be required to enter the ID and password to log onto and access secure portions of the Nadex website. Each time the applicant submits its unique user ID and password to Nadex in order to log onto Nadex, the applicant affirms that it understands and agrees to be bound by these Rules and other policies of Nadex, as amended.

(b) After an applicant's membership application has been approved by Nadex and the applicant has deposited the requisite amount of funds into its account as specified under Rule 3.1(b), the applicant becomes a Trading Member. As a Trading Member, such Person will be able to access the Market, execute trades, and otherwise access information regarding, or perform functions in, such Person's account using its ID and unique password.

(c) For account security and audit trail purposes, each Trading Member agrees that Nadex may maintain logs of its IP address when it is ~~are~~ logged into the Nadex website.

(d) Each Trading Member will be responsible for protecting its ID and password, and with respect to an entity Trading Member, the ID(s) and password(s) of its Authorized Trader(s), from improper disclosure. In addition, a Trading Member may not knowingly or negligently permit any Person not authorized by Nadex and by the Trading Member to use the ID and password to access the secure portion of the Nadex website. Each Trading Member is required to immediately notify Nadex if it knows, or has reason to believe, that its ID or the ID and/or password of any Authorized Trader have been disclosed to any Person not authorized by Nadex and the Trading Member to use such ID and/or password. Under any circumstances, the Trading Member will be deemed to know that such ID and/or password have been disclosed to an unauthorized person 12 hours after any order is entered by that unauthorized person in your account.

(e) Each Trading Member will be liable for all costs and any losses that it may incur from transactions executed on Nadex by any person, authorized or not, using its ID and password or the ID and/or password of any Authorized Trader. Nadex will not be responsible in any way for unauthorized transactions in a Trading Member's account.

(f) Each Trading Member is responsible for contracting with an Internet service provider through which it will access the Nadex website and for having a backup service provider if the Trading Member thinks it is necessary. Each Trading Member is also responsible for maintaining an Internet connection speed adequate for its needs. Nadex will not be responsible in any way for any orders delayed or trades missed or not executed in a timely fashion because of failure of the Trading Member's Internet service provider or slowness of its Internet connection speed. No communication from a Trading Member will be deemed to have been received by Nadex until that communication is logged by the Nadex server.

(g) Nadex in its discretion may place a Trading Member's account on hold (prohibiting any order activity) or on hold-liquidation only (allowing only orders to liquidate existing positions). In such circumstances, Nadex will promptly notify the affected Trading Member of the nature of and reason for the action.

RULE 5.3 [UNCHANGED]

RULE 5.4 TRADING CONTRACTS – CUSTOMERS OF FCM MEMBERS

(a) Nonmembers of Nadex will be able to trade Nadex Contracts only as Customers of an FCM Member and all Customer orders must be transmitted to Nadex from each Customer's FCM Member. Each FCM Member shall maintain a secure connection to Nadex and comply with all technical and other requirements established by Nadex for this purpose.

(b) Each FCM Member shall maintain a separate Nadex Position Account for the positions of each of its Customers and will indicate, when submitting any orders to Nadex, the Customer Position Account for which the order is submitted, as well as any other information required by Nadex.

(c) FCM Members will be able to submit orders for their customers (“FCM Customer Orders”) to trade (1) Variable Payout Contracts by submitting bids or offers at prices at which the Customer is willing to open a Long Variable Payout Contract or a Short Variable Payout Contract and (2) Binary Contracts by entering bids to purchase or offers to sell those Contracts at which the Customer is willing to open or close a long position in a Binary Contract or open or close a short position in a Binary Contract.

(d) For purposes of this Rule, “settlement account” refers to the FCM ~~Segregated Funds Settlement Cleared Swaps Customer~~ Account if the orders/trades are placed in a FCM Member’s Customer Position Account. “Settlement account” refers to the FCM ~~House Funds Settlement Cleared Swaps Proprietary~~ Account if the orders/trades are placed in a FCM test, error, or AP/employee Position Account.

(e) When a FCM Customer Order is matched by an order from another Member(s):

(i) If the FCM Customer Order is to enter into one or more Variable Payout Contracts for which that Customer does not have an offsetting position in its FCM Customer Position Account, Nadex will check the FCM settlement account to ensure it has enough funds to cover the maximum loss under the Variable Payout Contract(s) that the FCM Customer is attempting to enter into. If the FCM settlement account does not have the necessary funds for that trade, Nadex will cancel the FCM Customer Order prior to trade execution. If the FCM settlement account does have the necessary funds, Nadex will execute the trade. Upon trade execution, Nadex will: (1) debit the funds from the FCM settlement account in an amount necessary to cover the maximum loss, (2) credit that amount to the Nadex settlement account, (3) place the Variable Payout Contracts that were the subject of the executed trade into the FCM Customer Position Account, and (4) notify the FCM Member by FIX message that the trade has been executed. The maximum amount that the FCM Customer can lose under a Long Variable Payout Contract (and, therefore, the amount that will be debited from the FCM settlement account and then paid into the Nadex settlement account) is determined by subtracting the Floor from the Opening Trade Value and then multiplying the resulting figure by the Dollar Multiplier. The maximum amount that the FCM Customer can lose under a Short Variable Payout Contract is determined by subtracting the Opening Trade Value from the Cap and then multiplying the resulting figure by the Dollar Multiplier.

(ii) If the transaction involves entering into one or more Variable Payout Contracts for which the FCM Customer has an offsetting position in its FCM Customer Position Account (for example, entering into a Short Variable Payout Contract of a Series when the FCM Customer has a Long Variable Payout Contract of that same Series in its FCM Customer

Position Account), upon execution of the trade Nadex will: (1) close the offsetting position in the FCM Customer Position Account; (2) debit the Nadex settlement account in the amount of (A) any gains realized by the offsetting transaction; and (B) any funds that were debited from the FCM settlement account at the time the Variable Payout Contract(s) that is being closed was entered into and that were not also used to pay any losses on such Contract(s); (3) credit those amounts to the FCM settlement account; and (4) notify the FCM Member by FIX message that the trade has been executed.

(iii) If the FCM Customer Order is to enter into one or more Binary Contracts for which that Customer does not have an offsetting position in its FCM Customer Position Account, Nadex will check the FCM settlement account to ensure it has enough funds to cover its maximum loss under the Binary Contract(s) it is attempting to enter into. If the FCM settlement account does not have the necessary funds for that trade, Nadex will cancel the FCM Customer Order prior to trade execution. If the FCM settlement account does have the necessary funds, Nadex will execute the trade. Upon trade execution, Nadex will: (1) debit the funds from the FCM settlement account in an amount necessary to cover the maximum loss, (2) credit those funds to the Nadex settlement account, (3) place the Binary Contracts that were the subject of the order into the FCM Customer Position Account and (4) notify the FCM Member by FIX message that the trade has been executed. The maximum amount that the FCM Customer can lose under a long position in a Binary Contract (and, therefore, the amount that will be debited from the FCM settlement account and then paid into the Nadex settlement account) is determined by the price at which the FCM Customer entered into the long Binary Contract. The maximum amount that the FCM Customer can lose under a short position in a Binary Contract is determined by subtracting the price at which it sold the position short from the Binary Contract's Settlement Value. For example, if a FCM Customer enters into a short position in a Binary Contract with a \$100 Settlement Value at a trade price of \$40, the FCM Customer's maximum loss on that position would be \$60 ($\$100 - \$40 = \60).

(iv) If the transaction involves entering into one or more Binary Contracts for which that Customer has an offsetting position in its FCM Customer Position Account (for example, selling a position in a Binary Contract of a Series when the Customer is long a Binary Contract of that same Series in its FCM Customer Position Account), upon execution of the trade Nadex will: (1) close the offsetting position in the FCM Customer Position Account; (2) debit the Nadex settlement account in the amount of (A) any gains realized by the offsetting transaction; and (B) any funds that were debited from the FCM settlement account at the time the Binary Contract(s) that is being closed was entered into and that were not also used to pay any losses on such Contract(s); (3) credit those amounts to the FCM settlement account; and (4) notify the FCM Member by FIX Message that the trade has been executed.

(f) If a FCM Customer Order is placed on the market and not immediately matched by an order from another Member, it will rest on the market until it is matched and executed in accordance with the

procedures outlined above in this Rule, until the FCM Customer cancels it, or until it is cancelled by Nadex upon the Expiration of the Series or otherwise in accordance with these Rules.

RULE 5.5 – 5.6 [UNCHANGED]

RULE 5.7 HANDLING OF CUSTOMER ORDERS

(a) Withholding Orders Prohibited. No FCM Member or AP/employee thereof may withhold or withdraw from the market any order or any part of an order for the benefit of any Person other than the Person placing the order.

(b) Disclosing Orders Prohibited

(i) It is a violation of this Rule 5.7 for any Person to disclose another Person's order to buy or sell any Contracts except as may be requested by Nadex or the Commission.

(ii) It is a violation of this Rule 5.7 for any Person to take action or direct another Person to take action based on non-public order information, however acquired.

(c) Trading Against Customer Orders Is Prohibited

(i) No FCM Member or AP/employee thereof in possession of a FCM Customer Order may knowingly enter into a transaction opposite such FCM Customer Order directly or indirectly for him/herself or any other Person with whom such FCM Member or AP/employee has a direct or indirect financial interest.

(d) Trading Ahead of Customer Orders Is Prohibited

(i) No FCM Member or AP/employee thereof in possession of a FCM Customer Order to be submitted to the Exchange shall enter an order to buy or sell in the same product for its/his own account or an account in which it/he has a direct or indirect financial interest.

RULE 5.8 – 5.18 [UNCHANGED]

RULE 5.19 PROHIBITED TRANSACTIONS AND ACTIVITIES

(a) Members are prohibited from entering orders on the Market if there are insufficient funds or Contracts in the Member's settlement account to satisfy such orders if they are executed. Subject to the conditions set forth in Rule 9.2(f) and Rule 9.6, if you violate this Rule, the following penalties may apply:

Number of Per Incident Violations Within a Calendar Year	Penalty
1.	\$10 fee deducted from the Member's settlement account.
2.	\$10 fee deducted from the Member's settlement account, and the Member will be required to re-certify that it has read and agree to be bound by this Rule 5.13(a).
3.	\$15 fee deducted from the Member's settlement account, and the Member will be required to give a satisfactory explanation as to why the Rule violation occurred, or (in the case of Trading Members) trading privileges may be suspended for 30 days.
4.	\$20 fee deducted from the Member's settlement account and (in the case of Trading Members) suspension of trading privileges for 30 days (regardless of explanation).
5.	\$25 fee deducted from the Member's settlement account and (in the case of Trading Members) suspension of trading privileges for 6 months (regardless of explanation).
6.	\$30 fee and revocation of trading privileges (regardless of explanation).

Nadex may, in its discretion, take such other action against a Member or market participant if the circumstances warrant, subject to Rule 9.2(f) and Rule 9.6.

(b) No Person shall enter into or attempt to enter into any non-competitive trade on the Market, including any accommodation trade or any trade that has been directly or indirectly prearranged. For example, a Member may not agree in advance with another Member that one of the Members will enter an order and the other Member will attempt to trade against that order by timing the submission of orders or otherwise.

(c) No Person shall enter into or attempt to enter into any trade on the Market that does not result in a change in beneficial ownership, that is designed to unnaturally inflate trading volume, that in any way attempts to circumvent the Market's order processing, trade ordering, and trade execution systems, or otherwise to circumvent exposure of the order to open and competitive bidding on the Market, or that has some other illegitimate purpose.

(d) No Person shall enter into any trade designed or used to cause any price for a Contract other than a true and bona fide price to be reported, registered, or recorded by the Market.

(e) No Person shall trade in, transfer, assign, or otherwise dispose of Contracts other than as provided for in these Rules.

(f) No Person shall enter into or agree to transfer or transfer the benefit of any position in any Contract to another person other than through a transaction executed through the Market.

(g) No individual Trading Member shall trade for a person or entity other than itself and no Authorized Trader of an entity Trading Member shall trade for a person or entity other than the entity Trading Member for whom that Person is an Authorized Trader.

(h) No Person shall engage in any activity that presents a risk of harm to Nadex, its Members, or the public.

(i) No Person shall engage in any activity that adversely affects the integrity of the Market or its underlying systems.

(j) No Person subject to arbitration under these rules shall fail to abide by an arbitration decision or award handed down under Chapter 10 of these Rules.

(k) No Person shall intentionally provide erroneous or fraudulent information to Nadex on a membership application or otherwise.

(l) No Person shall engage in any activity that is intended to, or has the effect of, manipulating the market in violation of Sections 6(c) and 9(a)(2) of the CEA and no Person shall engage in any other activity that would violate the CEA or the Commission's Regulations.

(m) No Member shall allow its settlement account balance to become negative by any means. In the event that a Member's settlement account balance becomes negative, the Member must immediately deposit additional funds to correct the deficiency. Any Member whose settlement account carries a negative balance for 30 days or more is subject to summary termination of Membership. Nadex may, in its discretion, take such other action against a Member or market participant if the circumstances warrant, subject to Rule 9.2(f) and Rule 9.6.

(n) No FCM Member shall enter any bids, offers or transactions on the Market if it knows or should know that it is subject to early warning reporting requirements under Commission Regulation 1.12, is subject to a proceeding in bankruptcy or is otherwise unable to pay its obligations as they become due, without the prior written approval of Nadex.

(o) No FCM Member shall knowingly carry an account, enter an order or effecting any transactions for any employee of Nadex without the prior written consent of the employer.

(p) No Member shall engage in conduct or practices inconsistent with just and equitable principles of trade or conduct or practices detrimental to the best interests of the Exchange, its Members and/or FCM Customers.

(q) No FCM Member that receives an order to buy or sell a Contract for execution on Nadex shall directly or indirectly guarantee the execution of the order or any of its terms, including quantity or price. A ~~Clearing~~ FCM Member may only report to a FCM Customer a trade that has been executed or reported on the Nadex Market.

(r) If a Member is an Insider of any public company that has access to material non-public information that is the subject of an Underlying of any Contract, that Member is prohibited from attempting to enter into any trade or entering into any trade, either directly or indirectly, on the market in such Contracts. An "Insider" means any person who has access to or is in a position to have access to material non-public information before such information is made publicly available. Without limiting the generality of the foregoing restriction, an Insider includes any officer or director of a public company, any employee who works in the company's financial or accounting department, and any employee of the company's accounting firm who performs services for the public company.

(s) No Person shall engage in any activity that constitutes fraudulent or abusive trading, including but not limited to spoofing.

(t) No Person shall engage in any trading activity intended to accomplish a "money pass".

RULE 5.20 [UNCHANGED]

CHAPTER 6 CLEARING AND SETTLING CONTRACT TRADES, CONTRACTS AT EXPIRATION, AND MEMBER WITHDRAWAL REQUESTS AND REGULATORY REPORTING OF SWAP DATA

RULE 6.1 CLEARANCE AND SUBSTITUTION

(a) In its capacity as a registered derivatives clearing organization, upon the successful matching of orders pursuant to Rules 5.3 or 5.4 Nadex shall immediately, through the process of novation, be substituted as, and assume the position of, seller to the Member buying and buyer to the Member selling the relevant Nadex contract. Upon such substitution, the buying and selling Members shall be released from their obligations to each other, and such Member shall be deemed to have bought the contracts from or sold the contracts to Nadex, as the case may be, and Nadex shall have all the rights and be subject to all the liabilities of such Member with respect to such transaction. Such substitution shall be effective in law for all purposes.

~~RULE 6.1~~ RULE 6.2 SETTLING CONTRACT TRADES

(a) Nadex will maintain, on its system, a record of each Member's account balances and Contracts and (b) each FCM Member's ~~Segregated Funds Settlement~~ Cleared Swaps Customer Account and ~~House Funds Settlement~~ Cleared Swaps Proprietary Account balances and, by subaccount, the positions of each of its FCM Customers. Nadex will also maintain a "Nadex settlement account," which will reflect funds used by Members to buy and sell Contracts. Nadex will also maintain a "Nadex proprietary account," which will be credited with all fees debited from Member accounts due to trades and expiration settlements. All settlements among these accounts on the Nadex system will be instantaneous.

(b) All funds in Member accounts and in the Nadex settlement account will be maintained in an account at the Nadex settlement bank that is designated as a ~~customer segregated funds account~~ Cleared Swaps Customer Account under the CEA and the Commission's Regulations. Because those funds will be commingled at the settlement bank, transfers among Member accounts and transfers between Member accounts and the Nadex settlement account will not be transmitted to the settlement bank. Such records will only be maintained on the Nadex system. However, once every settlement bank business day, Nadex will send to its settlement bank by batch mode electronic transmission instructions for the settlement bank to transfer fees credited by Nadex to the Nadex proprietary account on its system from the ~~customer segregated funds account~~ Cleared Swaps Customer Account at the settlement bank to the Nadex proprietary account at the settlement bank.

(c) The settlement bank will complete the transfer in the settlement instructions described in paragraph (b) of this Rule and notify Nadex of its completion.

~~RULE 6.2~~ RULE 6.3 SETTLING CONTRACTS AT EXPIRATION

(a) When a Series of Variable Payout Contracts expires, those Contracts will settle in an amount (if any) determined by the calculations set forth in the definitions for Long and Short Variable Payout Contracts set forth in Chapter 1 of these Rules. When a Series of Binary Contracts expires and has a Payout Criterion that encompasses the Expiration Value of the Underlying, such Binary Contract will pay the Settlement Value for such Binary Contracts (e.g. \$100) to the holders of long positions in such Binary Contracts. Conversely, when a Series of Binary Contracts expires and has a Payout Criterion that does NOT encompass the Expiration Value of the Underlying, such Binary Contract will pay the Settlement Value for such Binary Contracts (e.g. \$100) to the holders of short positions in such Binary Contracts.

(b) On the Settlement Date;

- (i) Nadex will notify all Members which Contract is going to pay a Settlement Value and which Contract will not pay a Settlement Value.
- (ii) Nadex will immediately settle the Variable Payout Contracts by (A) debiting Nadex's settlement account in an amount equal to (1) any gains realized by

Members (including customers of FCM Members) plus (2) any blocked funds that were debited from Members' accounts at the time the Variable Payout Contracts that are expiring were entered into that are not used to pay any losses on such Contract(s) and (B) crediting those amounts, respectively, to the accounts of (1) Members who realized such gains, in each case in the amount of such gains realized by each Member (including Customers of FCM Members), and (2) Members from whose accounts such blocked funds were taken, in each case in the amount of such blocked funds that was not required to pay losses experienced by such accounts on such Contracts.

- (iii) Nadex will immediately settle the Binary Contracts by debiting the Nadex's settlement account in an amount no less than the Settlement Value for such Contracts multiplied by the total number of outstanding in-the-money Binary Contract positions and credit those funds to the applicable settlement accounts of the Members holding the in-the-money Binary Contract positions (or, in the case of Customers of FCM Members holding the in-the-money Binary Contract positions, to the settlement account of the FCM Member).
- (iv) Nadex will delete all Contracts of the expiring Series from Trading Members' accounts and FCM Customer Position Accounts, as applicable.

(c) Any Person who believes there has been an error in settlement, must report that error to Nadex immediately. Such report must state the basis for the belief that there has been an error in settlement. If Nadex receives notice of a settlement error before the end of the fifth Trading Day following settlement, Nadex will review that report and will correct any error that Nadex determines has been made. If Nadex does not receive notice of an error of settlement before the end of the fifth Trading Day following settlement, then (i) settlement will be final and (ii) all Members agree that Nadex shall not be responsible to you in any fashion for an uncorrected error in settlement.

~~RULE 6.3~~ RULE 6.4 SETTLING MEMBER WITHDRAWAL REQUESTS

Within one settlement bank business day of when a Member requests to withdraw funds from its Nadex account, Nadex will transmit such request to its settlement bank in electronic batch mode transmission. The settlement bank will process that request and send those funds to the account at the Financial Institution registered with Nadex by the Member (unless the Member and, in the case of FCM Members, any FCM Customer of that FCM Member has unsatisfied outstanding obligations on Nadex, in which case Nadex may retain such balances as necessary to satisfy such obligations or until the Member otherwise satisfies such obligations). The Member should refer to Nadex's website under the Fee Schedule for all fees and costs associated with withdrawal of funds from the Member's Nadex account.

RULE 6.5 REGULATORY REPORTING TO SWAP DATA REPOSITORY

For all Nadex Contracts traded on and cleared by Nadex, and the resulting positions, Nadex shall report available creation and continuation data to the swap data repository designated by Nadex for purposes of complying with applicable CFTC rules governing the regulatory reporting of swaps.

RULE 7.1 – 7.2 [UNCHANGED]

CHAPTER 8 INVESTMENT OF MEMBER ACCOUNT FUNDS

Member funds on deposit with Nadex and funds in the Nadex settlement account (i.e., the account containing the funds paid by Members to purchase Contracts and which are to be used to pay Members holding in-the-money Contracts at expiration) will be segregated as ~~customer funds~~ cleared swaps customer collateral in accordance with the Commission's Regulations. Nadex may invest such funds subject to the limitations and conditions set forth in Commission Regulations 22.2(e)(2) and 1.25. Nadex will pay interest to Members' accounts at a floating rate to be determined by Nadex on funds in Members' Nadex accounts in excess of an amount to be determined by Nadex. Nadex will retain all profit from investment of Member funds not paid to Members in accordance with the preceding sentence.

RULE 9.1 – 9.5 [UNCHANGED]

RULE 9.6 SUMMARY SUSPENSION

(a) Nadex may summarily suspend or restrict a Member (or any of its Authorized Traders or, in the case of FCM Members, its customers) privileges if the Chief Regulatory Officer believes suspension or restriction is necessary to protect the swaps or commodity futures markets, Nadex, the public, or other Members.

(b) Whenever practicable Nadex will notify the Member whose privileges are to be summarily suspended by electronic mail before the action is taken. If prior notice is not practicable, the Member shall be served with notice by electronic mail at the earliest opportunity. This notice shall:

- (i) state the action taken or to be taken;
- (ii) briefly state the reasons for the action;
- (iii) state the time and date when the action became or becomes effective and its duration; and
- (iv) state that any person aggrieved by the action may petition the Commission for a stay of the effective date of the action pending a hearing pursuant to Part 9 of the Commission's Regulations, within 10 days of service.

(c) The Member (or Authorized Trader or customer of an FCM Member) whose privileges are to be summarily suspended shall be given an opportunity for appeal under the procedures outlined in Rule 9.2(f) of these Rules. The decision affirming, modifying, or reversing the summary suspension shall be furnished by electronic mail to the suspended Member or Authorized Trader or, with respect to a FCM Customer, to the FCM Member, and the Commission no later than one business day after it is issued. The decision shall contain:

- (i) a description of the action taken and the reasons for the action;
- (ii) a brief summary of the evidence received during the appeal process;
- (iii) findings and conclusions;
- (iv) a determination as to whether the summary action that was taken should be affirmed, modified, or reversed;
- (v) a declaration of any action to be taken against the suspended Member as the result of that determination;
- (vi) the effective date and duration of that action;
- (vii) a determination of the appropriate relief based on the findings and conclusions;
- (viii) a statement that any person aggrieved by the action may have a right to appeal the action pursuant to Part 9 of the Commission's Regulations, within 30 days of service; and
- (ix) a statement that any person aggrieved by the action may petition the Commission for a stay pursuant to Part 9 of the Commission's Regulations, within 10 days of service.

RULE 9.7 – 10.5 [UNCHANGED]

RULE 11.1 ACTIVITIES OF SELF-REGULATORY ORGANIZATION EMPLOYEES AND GOVERNING MEMBERS WHO POSSESS MATERIAL, NON-PUBLIC INFORMATION (ADAPTED FROM COMMISSION REGULATION 1.59)

(a) Definitions. For purposes of this Rule:

(1) Self-regulatory organization means “self-regulatory organization,” as defined in Commission regulation 1.3(ee), and includes the term “clearing organization,” as defined in Commission regulation 1.3(d).

(2) Governing board member means a member, or functional equivalent thereof, of the board of governors of a self-regulatory organization.

(3) Committee member means a member, or functional equivalent thereof, of any committee of a self-regulatory organization.

(4) Employee means any person hired or otherwise employed on a salaried or contract basis by a self-regulatory organization, but does not include:

(i) Any governing board member compensated by a self-regulatory organization solely for governing board activities; or

(ii) Any committee member compensated by a self-regulatory organization solely for committee activities; or

(iii) Any consultant hired by a self-regulatory organization.

(5) Material information means information which, if such information were publicly known, would be considered important by a reasonable person in deciding whether to trade a particular commodity interest on a contract market or a swap execution facility, or to clear a swap contract through a derivatives clearing organization. As used in this Rule, “material information” includes, but is not limited to, information relating to present or anticipated cash positions, commodity interests, futures, or option positions, trading strategies, the financial condition of members of self-regulatory organizations or members of linked exchanges or their customers or option customers, or the regulatory actions or proposed regulatory actions of a self-regulatory organization or a linked exchange.

(6) Non-public information means information which has not been disseminated in a manner which makes it generally available to the trading public.

(7) Linked exchange means:

(i) any board of trade, exchange or market outside the United States, its territories or possessions, which has an agreement with a contract market in the United States that permits positions in a commodity interest which have been established on one of the two markets to be liquidated on the other market;

(ii) any board of trade, exchange or market outside the United States, its territories or possessions, the products of which are listed on a United States contract market or a trading facility thereof; or

(iii) any securities exchange, the products of which are held as margin in a commodity account or cleared by a securities clearing organization pursuant to a cross-margining

arrangement with a futures clearing organization; ~~or which clears the products of any of the foregoing markets.~~

(iv) any clearing organization which clears the products of any of the foregoing markets.

(8) Commodity interest means any commodity futures, ~~or~~ commodity option or swap contract traded on or subject to the rules of a contract market, swap execution facility, or linked exchange, or cleared by a derivatives clearing organization, or cash commodities traded on or subject to the rules of a board of trade which has been designated as a contract market.

(9) Related commodity interest means any commodity interest which is traded on or subject to the rules of a contract market, a swap execution facility, linked exchange, or other board of trade, exchange or market, or cleared by a derivatives clearing organization, other than the self-regulatory organization by which a person is employed, and with respect to which:

(i) Such employing self-regulatory organization has recognized or established intermarket spread margins or other special margin treatment between that other commodity interest and a commodity interest which is traded on or subject to the rules of the employing self-regulatory organization; or

(ii) Such other self-regulatory organization has recognized or established intermarket spread margins or other special margin treatment with another commodity interest as to which the person has access to material, nonpublic information.

(10) Pooled investment vehicle means a trading vehicle organized and operated as a commodity pool within Commission Regulation 4.10(d), and whose units of participation have been registered under the Securities Act of 1933, or a trading vehicle for which Commission Regulation 4.5 makes available relief from regulation as a commodity pool operator, i.e., registered investment companies, insurance company separate accounts, bank trust funds, and certain pension plans.

(b) Employees of self-regulatory organizations; Self-regulatory organization rules.

~~(1) Nadex must maintain in effect Rules which have been submitted to the Commission pursuant to Section 5c(e) of the Act and Commission Regulations 38.4(a) or 39.4(a) and 40.5 that, at a minimum, prohibit:~~

~~(1)~~ (1) Employees of Nadex are prohibited from:

~~(A)(i)~~ trading, directly or indirectly, in any commodity interest traded on or cleared by Nadex or in any related commodity interest;

(ii) ~~Employees of Nadex from trading directly or indirectly in any commodity interest traded on or cleared by contract markets, swap execution facilities, or clearing organizations other than Nadex and in any commodity interest traded on or cleared by a linked exchange if the employee has access to material non-public information concerning such commodity interest.~~

(2) Employees of Nadex are prohibited from disclosing to any other person any material, non-public information which such employee obtains as a result of his or her employment at Nadex where such employee has or should have a reasonable expectation that the information disclosed may assist another person in trading any commodity interest; however, this Rule does not prohibit disclosures made in the course of an employee's duties, or disclosures made to another self-regulatory organization, linked exchange, court of competent jurisdiction or representative of any agency or department of the federal or state government acting in his or her official capacity.

~~(c) Members of Nadex's governing boards and committees and Nadex consultants; Nadex's Rules. Nadex must maintain in effect Rules which have been submitted to the Commission pursuant to Section 5c(e) of the Act and Commission Regulations 38.4(a) or 39.4(a) and 40.5 which provide that no No member of Nadex's governing board or of a committee of Nadex and no Nadex consultant shall use or disclose, for any purpose other than the performance of such person's official duties as a governing board or committee member or consultant, material, non-public information obtained as a result of such person's participation on any committee or governing board of Nadex or as a consultant of Nadex-person's official duties.~~

(d) Prohibited conduct.

(1) No person who is an employee of, a member of the governing board of, or a member of any committee of, or a consultant of Nadex shall:

(i) Trade for such person's own account, or for or on behalf of any other account, in any commodity interest on the basis of any material, non-public information obtained through special access related to the performance of such person's official duties as an employee, board or committee member, or consultant; or

(ii) Disclose for any purpose inconsistent with the performance of such person's official duties as an employee, board or committee member, or consultant, any material, non-public information obtained through special access related to the performance of such duties.

(2) No person shall trade for such person's own account, or for or on behalf of any account, in any commodity interest, on the basis of any material, non-public information that such

person knows was obtained in violation of paragraph (d)(1) from an employee of, a member of the governing board of, a member of any committee, or a consultant of a self-regulatory organization.

RULE 11.2 SERVICE ON SELF-REGULATORY ORGANIZATION GOVERNING BOARDS OR COMMITTEES BY PERSONS WITH DISCIPLINARY HISTORIES (ADAPTED FROM COMMISSION REGULATION 1.63)

(a) Definitions. For purposes of this section:

(1) Self-regulatory organization means a “self-regulatory organization” as defined in Commission Regulation 1.3(ee), and includes a “clearing organization” as defined in Commission Regulation 1.3(d), except as defined in paragraph (b)(6) of this Rule.

(2) Disciplinary committee means any person or committee of persons, or any subcommittee thereof, that is authorized by a self-regulatory organization to issue disciplinary charges, to conduct disciplinary proceedings, to settle disciplinary charges, to impose disciplinary sanctions or to hear appeals thereof.

(3) Arbitration panel means any person or panel empowered by a self-regulatory organization to arbitrate disputes involving such organization’s members or their customers.

(4) Oversight panel means any panel authorized by a self-regulatory organization to review, recommend or establish policies or procedures with respect to the self-regulatory organization’s surveillance, compliance, rule enforcement or disciplinary responsibilities.

(5) Final decision means:

(i) A decision of a self-regulatory organization which cannot be further appealed within the self-regulatory organization, is not subject to the stay of the Commission or a court of competent jurisdiction, and has not been reversed by the Commission or any court of competent jurisdiction; or,

(ii) Any decision by an administrative law judge, a court of competent jurisdiction or the Commission which has not been stayed or reversed.

(6) Disciplinary offense means:

(i) Any violation of the rules of a self-regulatory organization except those rules related to;

(A) Decorum or attire,

(B) Financial requirements, or

(C) Reporting or recordkeeping unless resulting in fines aggregating more than \$5,000 within any calendar year;

(ii) Any rule violation described in subparagraphs (a)(6)(i) (A) through (C) of this Rule which involves fraud, deceit or conversion or results in a suspension or expulsion;

(iii) Any violation of the Act or the regulations promulgated thereunder;

(iv) Any failure to exercise supervisory responsibility with respect to acts described in paragraphs (a)(6)(i) through (iii) of this Rule when such failure is itself a violation of either the rules of a self-regulatory organization, the Act or the regulations promulgated thereunder; or

(v) A disciplinary offense must arise out of a proceeding or action which is brought by a self-regulatory organization, the Commission, any federal or state agency, or other governmental body.

(7) Settlement agreement means any agreement consenting to the imposition of sanctions by a self-regulatory organization, a court of competent jurisdiction or the Commission.

(b) ~~Nadex must maintain in effect Rules which have been submitted to the Commission pursuant to Section 5c(c) of the Act and Commission Regulations 38.4(a) or 39.4(a) and 40.5 that render a Δ person is ineligible to serve on itsany Nadex disciplinary committees, arbitration panels, oversight panels or governing board whoif that person:~~

(1) Was found within the prior three years by a final decision of a self-regulatory organization, an administrative law judge, a court of competent jurisdiction or the Commission to have committed a disciplinary offense;

(2) Entered into a settlement agreement within the prior three years in which any of the findings or, in the absence of such findings, any of the acts charged included a disciplinary offense;

(3) Currently is suspended from trading on any contract market, is suspended or expelled from membership with any self-regulatory organization, is serving any sentence of probation or owes any portion of a fine imposed pursuant to either:

(i) A finding by a final decision of a self-regulatory organization, an administrative law judge, a court of competent jurisdiction or the Commission that such person committed a disciplinary offense; or,

(ii) A settlement agreement in which any of the findings or, in the absence of such findings, any of the acts charged included a disciplinary offense.

(4) Currently is subject to an agreement with the Commission or any self-regulatory organization not to apply for registration with the Commission or membership in any self-regulatory organization;

(5) Currently is subject to or has had imposed on him within the prior three years a Commission registration revocation or suspension in any capacity for any reason, or has been convicted within the prior three years of any of the felonies listed in section 8a(2)(D) (ii) through (iv) of the Act; or

(6) Currently is subject to a denial, suspension or disqualification from serving on the disciplinary committee, arbitration panel or governing board of any self-regulatory organization as that term is defined in section 3(a)(26) of the Securities Exchange Act of 1934.

(c) No person may serve on a disciplinary committee, arbitration panel, oversight panel or governing board of Nadex if such person is subject to any of the conditions listed in paragraphs (b) (1) through (6) of this Rule.

(d) Nadex shall submit to the Commission a schedule listing all those rule violations which constitute disciplinary offenses as defined in paragraph (a)(6)(i) of this Rule and to the extent necessary to reflect revisions shall submit an amended schedule within thirty days of the end of each calendar year. Nadex must maintain and keep current the schedule required by this section, post the schedule in a public place designed to provide notice to members and otherwise ensure its availability to the general public.

(e) Nadex shall submit to the Commission within thirty days of the end of each calendar year a certified list of any persons who have been removed from its disciplinary committees, arbitration panels, oversight panels or governing board pursuant to the requirements of this regulation during the prior year.

(f) Whenever Nadex finds by final decision that a person has committed a disciplinary offense and such finding makes such person ineligible to serve on that self-regulatory organization's disciplinary committees, arbitration panels, oversight panels or governing board, Nadex shall inform the Commission of that finding and the length of the ineligibility in any notice it is required to provide to the Commission pursuant to either section 17(h)(1) of the Act or Commission Regulation 9.11.

RULE 11.3 VOTING BY INTERESTED MEMBERS OF SELF-REGULATORY ORGANIZATION GOVERNING BOARDS AND VARIOUS COMMITTEES (ADAPTED FROM COMMISSION REGULATION 1.69)

(a) Definitions. For purposes of this section:

(1) Disciplinary committee means any person or committee of persons, or any subcommittee thereof, that is authorized by Nadex to issue disciplinary charges, to conduct disciplinary proceedings, to settle disciplinary charges, to impose disciplinary sanctions, or to hear appeals thereof in cases involving any violation of the Rules of Nadex except those cases where the person or committee is

authorized summarily to impose minor penalties for violating Rules regarding decorum, attire, the timely submission of accurate records for clearing or verifying each day's transactions or other similar activities.

(2) Family relationship of a person means the person's spouse, former spouse, parent, stepparent, child, stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law.

(3) Governing board means Nadex's board of directors, board of governors, board of managers, or similar body, or any subcommittee thereof, duly authorized, pursuant to a rule of Nadex that has been approved by the Commission or has become effective pursuant to Section 5c(c) of the Act and Part 40 of the Commission Regulations ~~38.4(a) or 39.4(a) and 40.5~~ to take action or to recommend the taking of action on behalf of Nadex.

(4) Oversight panel means any panel, or any subcommittee thereof, authorized by Nadex to recommend or establish policies or procedures with respect to Nadex's surveillance, compliance, rule enforcement, or disciplinary responsibilities.

(5) Member's affiliated firm is a firm in which the member is a "principal," as defined in Commission Regulation 3.1(a), or an employee.

(6) Named party in interest means a person or entity that is identified by name as a subject of any matter being considered by a governing board, disciplinary committee, or oversight panel.

(7) Self-regulatory organization means a "self-regulatory organization" as defined in Commission Regulation 1.3(ee) and includes a "clearing organization" as defined in Commission Regulation 1.3(d), but excludes registered futures associations for the purposes of paragraph (b)(2) of this section.

(8) Significant action includes any of the following types of Nadex actions or rule changes that can be implemented without the Commission's prior approval:

(i) Any actions or rule changes which address an "emergency" as defined in Commission Regulation 40.1; and,

(ii) Any changes in margin levels that are designed to respond to extraordinary market conditions such as an actual or attempted corner, squeeze, congestion or undue concentration of positions, or that otherwise are likely to have a substantial effect on prices in any contract traded or cleared at Nadex; but does not include any rule not submitted for prior Commission approval because such rule is unrelated to the terms and conditions of any contract traded at Nadex.

(b) Nadex Rules. Nadex shall maintain in effect Rules that have been submitted to the Commission pursuant to Section 5c(c) of the Act and Part 40 of the Commission Regulations ~~38.4(a) or~~

~~39.4(a) and 40.5~~ to address the avoidance of conflicts of interest in the execution of its self-regulatory functions. Such Rules must provide for the following:

(1) Relationship with named party in interest—

(i) Nature of relationship. A member of Nadex’s governing board, disciplinary committee or oversight panel must abstain from such body’s deliberations and voting on any matter involving a named party in interest where such member:

(A) Is a named party in interest;

(B) Is an employer, employee, or fellow employee of a named party in interest;

(C) Is associated with a named party in interest through a “broker association” as defined in Commission Regulation 156.1;

(D) Has any other significant, ongoing business relationship with a named party in interest, not including relationships limited to executing futures or option transactions opposite of each other or to clearing futures or option transactions through the same clearing member; or

(E) Has a family relationship with a named party in interest.

(ii) Disclosure of relationship. Prior to the consideration of any matter involving a named party in interest, each member of a Nadex governing board, disciplinary committee or oversight panel must disclose to the appropriate Nadex staff whether he or she has one of the relationships listed in paragraph (b)(1)(i) of this Rule with a named party in interest.

(iii) Procedure for determination. Nadex must establish procedures for determining whether any member of its governing board, disciplinary committees or oversight committees is subject to a conflicts restriction in any matter involving a named party in interest. Taking into consideration the exigency of the committee action, such determinations should be based upon:

(A) Information provided by the member pursuant to paragraph (b)(1)(ii) of this Rule; and

(B) Any other source of information that is held by and reasonably available to Nadex.

(2) Financial interest in a significant action—

(i) Nature of interest. A member of a Nadex governing board, disciplinary committee or oversight panel must abstain from such body's deliberations and voting on any significant action if the member knowingly has a direct and substantial financial interest in the result of the vote based upon either exchange or non-exchange positions that could reasonably be expected to be affected by the action.

(ii) Disclosure of interest. Prior to the consideration of any significant action, each member of a Nadex governing board, disciplinary committee or oversight panel must disclose to the appropriate Nadex staff the position information referred to in paragraph (b)(2)(iii) of this Rule that is known to him or her. This requirement does not apply to members who choose to abstain from deliberations and voting on the subject significant action.

(iii) Procedure for determination. Nadex must establish procedures for determining whether any member of its governing board, disciplinary committees or oversight committees is subject to a conflicts restriction under this section in any significant action. Such determination must include a review of:

(A) Gross positions held at Nadex in the member's personal accounts or "controlled accounts," as defined in Commission Regulation 1.3(j);

(B) Gross positions held at Nadex in proprietary accounts, as defined in Commission Regulation 1.17(b)(3), at the member's affiliated firm;

(C) Gross positions held at Nadex in accounts in which the member is a principal, as defined in Commission Regulation 3.1(a);

(D) Net positions held at Nadex in "customer" accounts, as defined in Commission Regulation 1.17(b)(2), at the member's affiliated firm; and

(E) Any other types of positions, whether maintained at Nadex or elsewhere, held in the member's personal accounts or the proprietary accounts of the member's affiliated firm that the self-regulatory organization reasonably expects could be affected by the significant action.

(iv) Bases for determination. Taking into consideration the exigency of the significant action, such determinations should be based upon:

(A) The most recent large trader reports and clearing records available to Nadex;

(B) Information provided by the member with respect to positions pursuant to paragraph (b)(2)(ii) of this Rule; and

(C) Any other source of information that is held by and reasonably available to Nadex.

(3) Participation in deliberations.

(i) Under the Rules required by this section, a Nadex governing board, disciplinary committee or oversight panel may permit a member to participate in deliberations prior to a vote on a significant action for which he or she otherwise would be required to abstain, pursuant to paragraph (b)(2) of this Rule, if such participation would be consistent with the public interest and the member recuses himself or herself from voting on such action.

(ii) In making a determination as to whether to permit a member to participate in deliberations on a significant action for which he or she otherwise would be required to abstain, the deliberating body shall consider the following factors:

(A) Whether the member's participation in deliberations is necessary for the deliberating body to achieve a quorum in the matter; and

(B) Whether the member has unique or special expertise, knowledge or experience in the matter under consideration.

(iii) Prior to any determination pursuant to paragraph (b)(3)(i) of this Rule, the deliberating body must fully consider the position information which is the basis for the member's direct and substantial financial interest in the result of a vote on a significant action pursuant to paragraph (b)(2) of this Rule.

(4) Documentation of determination. Nadex's governing boards, disciplinary committees, and oversight panels must reflect in their minutes or otherwise document that the conflicts determination procedures required by this section have been followed. Such records also must include:

(i) The names of all members who attended the meeting in person or who otherwise were present by electronic means;

(ii) The name of any member who voluntarily recused himself or herself or was required to abstain from deliberations and/or voting on a matter and the reason for the recusal or abstention, if stated; and

(iii) Information on the position information that was reviewed for each member.

RULE 12.1 TERMS THAT ARE UNIFORM ACROSS CONTRACTS

There are certain terms that are uniform across Contracts.

- (a) The minimum unit of trading for each Contract is one Contract.
- (b) All Contract prices are quoted in U.S. dollars and cents per Contract.
- (c) The minimum quote increment for each Contract is \$.01 per Contract.
- (d) All Expiration Values will be posted on Nadex's website no later than the close of business of the Expiration Date of a Contract Series.
- (e) At the time Nadex sets the Payout Criterion for any Binary Contract, Nadex will review its then-existing Binary Contracts in the same Class having the same Expiration time. No new Binary Contract in that same Class and having the same Expiration time will be offered with the same Payout Criterion. Instead, in instances where a duplicate Payout Criterion would be generated under the applicable product rule, the Payout Criterion for that Contract will be adjusted by pre-determined levels which shall be published on the Nadex website.
- (f) DAILY CONTRACTS means a Series of Contracts that have an Expiration Date within 24 hours after they are issued.
- (g) MONTHLY CONTRACTS mean a Series of Contracts that have a Payout Criterion based on the last reported level of the Underlying by the Source Agency. Monthly Contracts have an Expiration Date that is no less than twenty one calendar days and no greater than thirty five calendar days from the date on which the last reported level of the Underlying is released by the Source Agency. Unless otherwise specified in these rules, this Series shall have an Expiration Date that is equal to the Last Trading Date of the current month.
- (h) WEEKLY CONTRACTS mean a Series of Contracts that have an Expiration Date that is no less than four calendar days and no greater than seven calendar days from the date on which the contracts are issued. Unless otherwise specified in these rules, this Series shall have an Expiration Date that is equal to the Last Trading Date of the current week.
- (i) QUARTERLY CONTRACTS mean a Series of Contracts that have a Payout Criterion based on the last reported level of the Underlying during the previous quarter as released by the Source Agency. Unless otherwise specified in these rules, this Series shall have an Expiration Date that is equal to the Last Trading Date of the current quarter as defined by the Source Agency.
- (j) BI-ANNUAL CONTRACTS mean a Series of Contracts that have a Payout Criterion based on the last reported level of the Underlying from two quarters back as released by the Source Agency. Unless otherwise specified in these rules, this Series shall have an Expiration Date that is equal to the Last Trading Date of the current quarter as defined by the Source Agency. For example, if the Source Agency reports a level for the Underlying every February, May, August and November, a Bi-

Annual Contract will have a Payout Criterion based on the level reported in May with the Expiration Value based on the level of the Underlying scheduled to be released in November.

(k) YEAR-END CONTRACTS mean a Series of Contracts that have a Payout Criterion based on the last reported level of the Underlying by the Source Agency prior to the issuance date of the Contract. Unless otherwise specified in these rules, this Series of Contracts shall have an Expiration Date that is equal to the Last Trading Date of the current year.

(l) TWO MONTH CONTRACTS mean a Series of Contracts that have a Payout Criterion based on the last reported level of the Underlying from two months back as released by the Source Agency. Unless otherwise specified in these rules, this Series shall have an Expiration Date that is equal to the Last Trading Date of the current month as defined by the Source Agency.

(m) CYCLICAL CONTRACTS mean a Series of Contracts that have a Payout Criterion based on the last reported level of the Underlying by the Source Agency. Unless otherwise specified in these Rules, this Series shall have an Expiration Date that is equal to the Last Trading Date of the current reporting cycle of the Source Agency.

(n) 4TH MEETING CONTRACTS mean a Series of Contracts that have a Payout Criterion based on the last reported level of the Underlying at the time the Contract is listed from four (4) meetings back as released by the Source Agency. Unless otherwise specified in these rules, this Series shall have an Expiration Date that is the last of the FOMC meeting scheduled as defined by the Source Agency. For example, if the Source Agency reports a level for the Underlying on March 21st, a 4th Meeting Contract will have a Payout Criterion based on the level reported on March 21st and will have an Expiration Value based on the level of the Underlying scheduled to be released four (4) scheduled meetings from that date, on September 18th.

(o) DAMAGE CONTRACTS mean a Series of Contracts that have a Payout Criterion based upon the amount of damage estimates calculated and released by the Source Agency.

(p) BI-WEEKLY CONTRACTS mean a Series of Contracts that have a Payout Criterion based on the last reported level of the Underlying from two weeks back as released by the Source Agency. Unless otherwise specified in these rules, this Series shall have an Expiration Date that is equal to the Last Trading Date.

(q) HALTED MARKETS - In the event that any market irregularities are declared by the President of the Exchange, a market may be halted for trading, and an explanation will be posted on the Nadex Notices section of the website within a reasonable amount of time but no later than 24 hours after the initiation of the halt.

(r) CONTRACT MODIFICATIONS - Specifications shall be fixed as of the first day of trading of a contract. If any U.S. governmental agency or body issues an order, ruling, directive or law that

conflicts with the requirements of these rules, such order, ruling, directive or law shall be construed to take precedence and become part of these rules, and all open and new contracts shall be subject to such government orders.

(s) INTRADAY CONTRACTS means a series of contracts that expire on the same trade date as, and within eight hours or less, of issuance.

(t) All Nadex Binary Contracts and Variable Payout Contracts are deemed to be “swaps” as defined in 17 USC 1a(47).

RULE 12.2 – 12.78 [UNCHANGED]

[End Rulebook]

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