



Rule Self-Certification

Nasdaq Futures, Inc.
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Philadelphia, PA 19103 / USA

business.nasdaq.com/futures

March 23, 2016

VIA ELECTRONIC PORTAL

Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, NW
Washington, DC 20581

Re: **Regulation §40.6(a) Submission Certification**
Aggregation of Positions
Reference File: SR-NFX-2016-35

Dear Mr. Kirkpatrick:

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 under the Act, NASDAQ Futures, Inc. (“NFX” or “Exchange”) amends its Rules at Chapter V, Section 13 to provide that all positions which are held by any person, or the trading of which is controlled by such person, must be aggregated for purposes of determining compliance with applicable position limits and position accountability levels. The amended rule text is attached as Exhibit A and will be implemented on April 7, 2016.

The Exchange has amended the rule to provide certain exceptions from aggregation which are recognized in the CFTC’s Supplemental Notice of Proposed Rulemaking on position limits, published September 29, 2015 (the “CFTC Proposed Rules”). These exceptions are reflected in the amendments to Chapter V, Section 13(c)(iii). The amendment to Chapter V, Section 13(c)(iii)(a) describes the positions or accounts of a separately organized entity (an “owned entity”). The amendment states that “if the sharing of information associated with such aggregation creates a reasonable risk that such sharing would cause any Person to violate state or federal law or the law of a foreign jurisdiction, or regulations adopted thereunder, *provided that* a written officer’s certification to that effect accompanies the request, and *provided further that* such Person does not have actual knowledge of information associated with such aggregation.”

The amendment to Chapter V, Section 13(c)(iii)(b) describes positions or accounts of an owned entity in which a Person holds an ownership or equity interest equal to or greater than 10% (except for positions which are subject to Federal position limits). The amendment states that “if the individuals controlling the trading decisions of the relevant accounts do not have knowledge

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of the trading decisions made by each other, the accounts trade pursuant to separately developed and independent trading strategies, there are written procedures designed to preclude access to information regarding the trades, positions and strategies of each account, and there is no sharing of personnel controlling the respective trading decisions.” Futures Participants will be required to submit an application with the Exchange, which must be granted by the Exchange. The application will be considered in light of all relevant information.

The Exchange certifies that the amendments comply with the Commodity Exchange Act, as amended, the regulations thereunder, including Core Principle 5 and CFTC Regulations 38.300 and 38.301. The exclusion to aggregation would not be available to any Exchange contracts that are currently subject to Federal position limits, as any contract that is subject to a position limitation established by the Commission, pursuant to section 4a(a) takes precedence. Currently, the Exchange has no contracts listed with higher Federal position limits. The amendment would allow market participants not to have their positions aggregated, but rather to report positions separately and apply for exemptions separately without aggregating those positions, so long as the firms did not already have knowledge about each other’s positions. The separate reporting would avoid the transfer of information relating to positions and other hedge exemptions among firms. The exclusion contained in the amendments generally tracks the CFTC Proposed Rules except for the proposed requirement that separate risk management systems be utilized. Finally, this rule is similar to ICE Futures U.S. Rule 6.12.

There were no opposing views among the Exchange’s Board of Directors, members or market participants. The Exchange hereby certifies that the amendment to Chapter V, Section 13 complies with the Commodity Exchange Act and regulations thereunder. The Exchange also certifies that a notice of pending certification with the Commission and a copy of this submission have been concurrently posted on the Exchange’s website at <http://www.business.nasdaq.com/futures>.

If you require any additional information regarding the submission, please contact Angela S. Dunn at +1 215 496 5692 or via e-mail at angela.dunn@nasdaq.com. Please reference SR-NFX-2016-35 in any related correspondence.

Regards,



Daniel R. Carrigan
President

cc: National Futures Association
The Options Clearing Corporation

Exhibit A

New text is underlined.

NASDAQ Futures Rules

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Chapter V Trading Procedures and Standards

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Section 13 Position Limits and Position Accountability

(a) No change.

(b) **Aggregation.**

(i) The position limits and position accountability levels established by these Rules shall apply to all positions held by any Person, including those positions in accounts for which such Person by power of attorney or otherwise directly or indirectly holds positions or controls trading; and in the case of positions held by two (2) or more Persons acting pursuant to an expressed or implied agreement or understanding, the same as if all of the positions were held by or the trading of the positions were done by, a single Person. An account is considered to be under common ownership or control if the Person has a 10 percent or greater financial interest (i.e., ownership or profit interest) in the account or the Person directs the trading in the account via a power of attorney or otherwise.

(ii) An 'eligible entity', as defined in CFTC Regulation 150.1(d) need not aggregate its positions with the eligible entity's client positions or accounts carried by an authorized 'independent account controller', as defined in Regulation 150.1(e), provided that the positions are not held in the spot month during such time as a notice period or spot month position limit is in effect. If an independent account controller is affiliated with an eligible entity or another independent account controller, each of the affiliated entities must comply with the requirements specified in CFTC Regulation 150.3(a)(4)(i)(A-D).

(iii) The Exchange may exclude any Person from the aggregation requirements of paragraph (b) of this Rule upon receipt of a written request in the form specified by the Exchange, which details the circumstances of the request, in the following instances:

(a) With respect to the positions or accounts of a separately organized entity (an "owned entity"): if the sharing of information associated with such aggregation creates a reasonable risk that such sharing would cause any Person to violate state

or federal law or the law of a foreign jurisdiction, or regulations adopted thereunder, provided that a written officer's certification to that effect accompanies the request, and provided further that such Person does not have actual knowledge of information associated with such aggregation.

(b) With respect to the positions or accounts of an owned entity in which a Person holds an ownership or equity interest equal to or greater than 10% (except for positions which are subject to Federal position limits): if the individuals controlling the trading decisions of the relevant accounts do not have knowledge of the trading decisions made by each other, the accounts trade pursuant to separately developed and independent trading strategies, there are written procedures designed to preclude access to information regarding the trades, positions and strategies of each account, and there is no sharing of personnel controlling the respective trading decisions.

(c) - (e) No change.

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