



## Rule Self-Certification

April 23, 2015

### VIA ELECTRONIC PORTAL

Christopher J. Kirkpatrick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Center  
1155 21<sup>st</sup> Street, N.W.  
Washington, DC 20581

Re: **Regulation §40.6 Submission Certification**  
**Summary Fines**  
**Reference File: SR-NFX-2015-24**

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 Chapter VI, Section 6, entitled “Summary Disciplinary Proceedings” and adopts a Futures Regulatory Alert alerting Futures Participants to the new fine schedule. The text of the amendment to Chapter VI, Section 6 is set forth in Exhibit A. The Futures Regulatory Alert is set forth in Exhibit B. The amendment to Chapter VI, Section 6 and the Futures Regulatory Alert will be implemented on May 8, 2015.

The Exchange amends Chapter VI, Section 6 to add summary fine schedules for (1) failing to report large trader or open interest; (2) failing to comply with order marking requirements for off-Exchange trading; and (3) failing to provide the correct Order ID, party identified or capacity of customer placing the Order or type of business conducted. The Exchange’s Rules provide that such information is required to be provided in an accurate, complete and timely manner. The rules provide tiered summary fine schedules for failures to comply. Additionally, the summary fine schedule related to reporting large trader and open interest information makes clear that information received within one (1) business day will be deemed to meet the requirement of prompt compliance. The Exchange will issue a Futures Regulatory Alert alerting Futures Participants to these additions to the summary fee schedule.

With respect to the designated contract market core principles (“Core Principles”) as set forth in the Act:

- *Compliance with Rules:* Today the Exchange has in place Rules which describe the manner in which Futures Participants may access and trade on NFX. Chapter II, Section I provides for the qualifications and rules of participation applicable to Futures Participants as well as Authorized Traders. Chapter V, Section 18 describes prohibited activities with respect to the Trading System. Trading is subject to the Rules at Chapter III of the Exchange’s Rulebook, which include prohibitions against fraudulent, noncompetitive, unfair and abusive practices. Additionally, trading is subject to the trading procedures and standards in Chapter V of the Rulebook. The Exchange’s disciplinary Rules are contained in Chapter VI of the Rulebook.
- *Prevention of Market Disruption:* The Exchange’s Regulatory Department, which handles real-time surveillance, monitors trading activity on the Exchange with a SMARTS Surveillance Application through which the Exchange can track activity of specific Authorized Traders, monitor price and volume information and receive alerts regarding market messages. The Exchange’s Regulatory Department, which handles real-time surveillance in conjunction with staff that handles T+1 surveillance, utilizes data collected by the SMARTS Surveillance Application to monitor price movements, as well as market conditions and volumes to detect suspicious activity such as manipulation, disruptive trading and other abnormal market activity.
- *Disciplinary Procedures.* The Exchange has enforce disciplinary procedures that authorize it to discipline, suspend, or expel Futures Participants and market participants that violate Exchange rules. Specifically, the Exchange’s Rules at Chapter VI outline the disciplinary process.
- *Protection of market participants.* Chapter III of the Exchange’s Rulebook contains prohibitions precluding intermediaries from disadvantaging their customers. These rules apply to trading in all Contracts.

There were no opposing views among the Exchange's Board of Directors, members or market participants. The Exchange hereby certifies that the amendments to Chapter VI, Section 6 and the Futures Regulatory Alert comply 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.nasdaqomx.com/transactions/markets/nasdaq-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](mailto:angela.dunn@nasdaq.com). Please reference SR-NFX-2015-24 in any related correspondence.

Regards,

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

Daniel R. Carrigan  
President

cc: National Futures Association  
The Options Clearing Corporation

## **Exhibit A**

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

### **Chapter VI Disciplinary Rules**

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#### **Section 6 Summary Disciplinary Proceedings**

(a) In lieu of commencing a "disciplinary proceeding" as that term is used in Sections 1-14, the Exchange may, subject to requirements set forth in this Rule, issue a warning for first-time violations or violators or impose a fine, not to exceed \$5,000, on any Futures Participant, Authorized Trader, Authorized Customer, an affiliated person or entity of the Futures Participant or other person for any violation of a certain rules which are specified herein. In issuing a warning or imposing a fine, the Exchange shall have determined such a violation is minor in nature. Notwithstanding the foregoing, the Exchange may determine to consider any violation the subject of a disciplinary proceeding.

(b) In issuing a warning, no more than one warning letter may be issued per rolling 12-month period for the same violation.

(c) In imposing a fine, the Futures Participant, Authorized Trader, Authorized Customer or other person against whom a fine is imposed shall be served with a written statement, signed by an authorized official of the Exchange on behalf of the Business Conduct Committee, setting forth (i) the alleged violation; (ii) the act or omission constituting each such violation; (iii) the fine imposed for each violation; and (iv) the date by which such determination becomes final and such fine becomes due and payable to the Exchange or when such determination must be contested, as provided in paragraph (d) hereunder, such date to be not less than seven business days after the date of service of the written statement.

(d) For the purposes of imposing fines pursuant to this Rule, the Exchange may aggregate individual violations of particular Rules of the Exchange and treat such violations as a single offense. In other instances, the Exchange may, if no exceptional circumstances are present, impose a fine based upon a determination that there exists a pattern or practice of violative conduct. The Exchange also may aggregate similar violations generally if the conduct was unintentional, there was no injury to public investors or where the violations resulted from a single problem or cause that has been corrected.

(e) If the Futures Participant, Authorized Trader, Authorized Customer or other person against whom a fine is imposed pursuant to this Rule pays the fine, such payment shall be deemed to be a waiver by such person of his right to a disciplinary proceeding under Sections 1-14 and any review of the matter by the Business Conduct Committee, an Exchange Hearing Panel, the Disciplinary Review Committee, or the Exchange Board of Directors.

(f) Any Futures Participant, Authorized Trader, Authorized Customer or other person against whom a fine is imposed pursuant to this Rule may contest the Exchange's determination by filing with the Department of the Exchange taking the action not later than the date by which such determination must be contested a written response meeting the requirements of an "Answer" as provided in Section 4, at which point the matter shall be referred to the Business Conduct Committee for its consideration and determination.

(g) The Committee may then (a) decide that the matter be dismissed and the notice of alleged violation be rescinded; (b) decide that the notice, as issued, is valid, whereupon the alleged violator could either pay the fine or contest the matter before a Hearing Panel; (c) decide that the notice, as issued, should be modified to specify either a higher or lower fine than the one on the notice as issued, whereupon the alleged violator could either pay the new fine or contest the matter before a Hearing Panel; or (d) decide that the matter merits formal disciplinary action and authorize issuance of a Complaint, pursuant to Section 2.

(h) If a disciplinary proceeding thereafter results, and the Hearing Panel determines that the person has violated the rule as alleged, the Hearing Panel shall (a) be free to impose any disciplinary sanction provided for in Section 1-14 and (b) determine whether the violation is minor in nature.

(i) The following violations are subject to the provisions set forth in Section 6:

#### **Failure to Comply with an Exchange Inquiry**

Each Futures Participant or Authorized Person is required to promptly comply with any request of information made by the Exchange, or any other regulatory authority acting on behalf of the Exchange, in connection with any regulatory inquiry, investigation or examination relating to the Exchange's disciplinary jurisdiction or regulatory obligations.

For the purpose of this rule, information received within ten (10) business days from the date of the original request shall be deemed to meet the requirement of prompt compliance, except for purposes of Examinations Department requests, information received within two business days from the date of the original request shall be deemed to meet the requirement of prompt compliance.

The Exchange may under extenuating circumstances grant extensions to allow for responses beyond the allotted requirement. Requests for extensions must be submitted in writing to the appropriate department, prior to the due date of the outstanding request. Each additional request for information not furnished within the allotted time periods may be considered a separate occurrence for purposes of the fine schedule below.

FINE SCHEDULE (Implemented on a three year running calendar basis.)

1st Occurrence	\$1,000.00
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2nd Occurrence	\$2,500.00
3rd and Thereafter	Sanction is discretionary with Business Conduct Committee

**Failure to Report Large Trader or Open Interest**

All data, records, and other information required by Exchange Rules to be reported to the Exchange must be submitted in an accurate, complete and timely manner. For purposes of this Rule, information received within one (1) business day will be deemed to meet the requirement of prompt compliance.

FINE SCHEDULE (Implemented on a three year running calendar basis.)

<u>1st Occurrence</u>	<u>\$1,000.00</u>
<u>2nd Occurrence</u>	<u>\$2,500.00</u>
<u>3rd and Thereafter</u>	<u>Sanction is discretionary with Business Conduct Committee</u>

**Failure to Comply with Order Marking Requirement for Block Trades and Exchange for Related Positions (Chapter IV, Sections 11 and 12)**

All data, records, and other information required by Exchange Rules to be reported to the Exchange must be submitted in an accurate, complete and timely manner. For purposes of this Rule, correct information must be received upon Block Trade and Exchange for Related Positions submission.

FINE SCHEDULE (Implemented on a three year running calendar basis.)

<u>1st Occurrence</u>	<u>\$1,000.00</u>
<u>2nd Occurrence</u>	<u>\$2,500.00</u>
<u>3rd and Thereafter</u>	<u>Sanction is discretionary with Business Conduct Committee</u>

**Failure to Provide the Correct Order ID, Party Identifier or, Capacity of Customer Placing the Order or Type of Business Conducted.**

All data, records, and other information required by Exchange Rules to be reported to the Exchange must be submitted in an accurate, complete and timely manner. For purposes of this Rule, correct information must be received upon Order entry.

FINE SCHEDULE (Implemented on a three year running calendar basis.)

<u>1st Occurrence</u>	<u>\$1,000.00</u>
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2nd Occurrence

\$2,500.00

3rd and Thereafter

Sanction is discretionary with  
Business Conduct Committee

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## Exhibit B

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### Futures Regulatory Alert #2015 - XX

#### Summary Fines for Reporting Infractions

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#### Category:

System Impact

#### Markets Impacted:

[Nasdaq Futures](#)

#### Contact Information:

[U.S. Market Operations -  
Futures](#) at +1 215 496  
1571

[U.S. Market Sales](#) at +1  
800 846 0477

[Futures Sales](#)  
[Futures Regulation](#)

#### Resources:

Chapter VI, Section 6

- NASDAQ Futures, Inc. (“NFX” or “Exchange”) Rules at Chapter VI, Section 6 permit the Exchange to commence summary disciplinary proceedings for Futures Participants that fail to file reports or records completely, accurately and in a timely manner.
- The following reports are subject to sanctions under Chapter IV, Section 6 including, but not limited to, deficiencies related to the following submissions:
  - Large Trader Reporting
  - Open Interest Reporting
  - Block Trade Reporting
  - Exchange for Related Positions Reporting
  - Failure to properly identify an Order:
    - Unique Identifier set by the client – CIOordID (Tag 11)
    - Party Identifier – PartyID (Tag 448)
    - Capacity of Customer Placing the Order – CustOrderCapacity (Tag 582)
    - Type of Business Conducted – OrderCapacity (Tag 528)

NFX Rules at Chapter VI, Section 6 require that all data, records and other information required to be reported to the Exchange be submitted in an accurate, complete and timely manner. This Rule authorizes the Exchange to issue a summary fine based on inaccurate, incomplete, or untimely submission of data or records. The summary fines are not less than \$1,000 or in excess of \$2,500 per offense.

For the purpose of imposing fines pursuant to this Rule, the Exchange may aggregate individual violations of particular Rules of the Exchange and treat such violations as a single offense. In other instances, the Exchange may, if no exceptional circumstances are present, impose a fine based upon a determination that there exists a pattern or practice of violative conduct. The Exchange also may aggregate similar violations generally if the conduct was unintentional, there was no injury to public investors or where the violations resulted from a single problem or cause that has been corrected.

The Exchange may, in its discretion, issue warning letters for a first offense. However, consistent with CFTC regulations, no more than one warning letter will be issued to an individual or entity for the same offense within a rolling 12-month period. Factors which may affect the amount of the sanction, pursuant to Chapter VI, Section 6, include the magnitude, frequency and impact of the reporting infraction, the party’s prior disciplinary history for similar infractions and remedial actions taken to correct the identified reporting issues. The Exchange, in its discretion, may refer matters that it deems egregious to the Business Conduct Committee (“BCC”).



## **Chapter VI, Section 6 Summary Disciplinary Proceedings**

The following new fine schedule will apply to certain reporting violations:

### **Failure to Report Large Trader or Open Interest**

All data, records, and other information required by Exchange Rules to be reported to the Exchange must be submitted in an accurate, complete and timely manner. For purposes of this Rule, information received within one (1) business day will be deemed to meet the requirement of prompt compliance.

FINE SCHEDULE (Implemented on a three year running calendar basis.)

1st Occurrence	\$1,000.00
2nd Occurrence	\$2,500.00
3rd and Thereafter	Sanction is discretionary with Business Conduct Committee

### **Failure to Comply with Order Marking Requirement for Block Trades and Exchange for Related Positions (Chapter IV, Sections 11 and 12)**

All data, records, and other information required by Exchange Rules to be reported to the Exchange must be submitted in an accurate, complete and timely manner. For purposes of this Rule, correct information must be received upon Block Trade and Exchange for Related Positions submission.

FINE SCHEDULE (Implemented on a three year running calendar basis.)

1st Occurrence	\$1,000.00
2nd Occurrence	\$2,500.00
3rd and Thereafter	Sanction is discretionary with Business Conduct Committee

### **Failure to Provide the Correct Order ID, Party Identifier or, Capacity of Customer Placing the Order or Type of Business Conducted.**

All data, records, and other information required by Exchange Rules to be reported to the Exchange must be submitted in an accurate, complete and timely manner. For purposes of this Rule, correct information must be received upon Order entry.

FINE SCHEDULE (Implemented on a three year running calendar basis.)

1st Occurrence	\$1,000.00
2nd Occurrence	\$2,500.00
3rd and Thereafter	Sanction is discretionary with Business Conduct Committee

### **Where can I find more information?**

Contact: John Pickford at [FuturesReg@nasdaq.com](mailto:FuturesReg@nasdaq.com)