



September 8, 2023

Via CFTC Portal Submissions

Mr. Christopher Kirkpatrick  
Secretary of the Commission  
Office of the Secretariat  
Commodity Futures Trading Commission  
3 Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington D.C. 20581

**RE: Rule Self-Certification: Amendments to Rules Related to Definitions and Member Obligations - Submission Pursuant to Commission Regulation §40.6(a)**

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (the “Act”), and §40.6(a) of the regulations promulgated by the Commodity Futures Trading Commission (the “Commission”) under the Act, North American Derivatives Exchange, Inc. (“Nadex”) d/b/a crypto.com | Derivatives North America, hereby submits to the Commission its intent to amend the following rules in order to clarify certain definitional terms, provide further detail on Member Obligations, provide technical amendments to certain contract specifications, and the correction of typographical errors:

- Rule 1.1 – Definitions
- Rule 2.5 – Committees and Subcommittees
- Rule 2.9 – Limitation on Trading by Affiliates
- Rule 2.10 – Consent to Jurisdiction
- Rule 3.3(a) – Member Obligations
- Rule 5.19(n) – Prohibited Transactions and Activities
- Rule 6.1 – Clearance and Substitution
- Rules 12.87 and 12.88 – Event Contracts

See Appendix A for a redlined Rulebook depicting the relevant changes for each of the above listed Nadex Rules.

## **Analysis of Nadex Rule 2.9 Amendment Compliance With Core Principles**

### **DCM Core Principles**

Nadex has identified the following DCM Core Principles as potentially being impacted by the additional requirements for affiliated Trading: Core Principle 7 (Availability of General Information); Core Principle 16 (Conflicts of Interest).

Core Principle 7 requires that the DCM ensure that its Rulebook is accurate, complete, current and readily accessible to the public, and all new or amended rules, both substantive and non-substantive, shall be reflected in the Rulebook on the date of implementation. Nadex makes its Rulebook publicly available on the Nadex website. On the effective date of this submission, the Rulebook will be updated and published with the aforementioned rule amendment. Accordingly, these amendments will not negatively affect Nadex's ability to comply with this Core Principle.

Core Principle 16 requires a DCM to establish and enforce rules that minimize conflicts of interest and a process for resolving conflicts of interest. The additional language in Rule 2.9 will clarify limitations on trading for Market Maker and FCM Members. Therefore, this addition will not negatively impact Nadex's ability to comply with this Core Principle.

### **DCO Core Principles**

Nadex has identified the following DCO Core Principles as potentially being impacted by the additional means of funding a Nadex account: Core Principle P (Conflicts of Interest); and Core Principle L (Public Information).

Core Principle P requires a DCO to establish and enforce rules that minimize conflicts of interest and a process for resolving conflicts of interest. The additional language in Rule 2.9 will help CDNA clarify and enforce the policies and procedures it already has in place. Therefore, this addition will not negatively impact Nadex's ability to comply with this Core Principle.

Core Principle L requires a DCO make publicly available its rules in a clear and comprehensive manner. Nadex makes its Rulebook publicly available on its website, which will be updated with the additions discussed herein on the effective date. Accordingly, these amendments will not negatively affect Nadex's ability to comply with this Core Principle.

## **Analysis of Nadex Rules 2.10 and 3.3 Amendment Compliance With Core Principles**

### **DCM Core Principles**

Nadex has identified the following Designated Contract Market (“DCM”) Core Principle as potentially being impacted by the amendments to Rule 2.10 and 3.3 discussed herein: Core Principle 2 (Compliance with the Rules); and Core Principle 7 (Availability of General Information) and Core Principle 13 (Disciplinary Procedures).

Core Principle 2 requires a DCM to, among other things, establish, monitor, and enforce access requirements, which shall be impartial, transparent and applied in a non-discriminatory manner. The additional language to this rule will provide additional authority to the Exchange to collect critical data from market participants who are subject to inquiry or investigation. The addition also reinforces the obligation of responsiveness for Members in order to continue to access CDNA markets. Therefore, this addition will not negatively impact Nadex’s ability to comply with this Core Principle.

Core Principle 7 requires that the DCM ensure that its Rulebook is accurate, complete, current and readily accessible to the public, and all new or amended rules, both substantive and non-substantive, shall be reflected in the Rulebook on the date of implementation. Nadex makes its Rulebook publicly available on the Nadex website. On the effective date of this submission, the Rulebook will be updated and published with the aforementioned rule amendment. Accordingly, these amendments will not negatively affect Nadex’s ability to comply with this Core Principle.

Core Principle 13 requires a DCM to establish and enforce disciplinary procedures that authorize the DCM to discipline, suspend or expel members that violate the rules of the DCM. This rule addition clearly spells out the specific obligation that Members provide crypto spot market data to the Exchange upon request and also outlines the consequences for failing to do so. Therefore, this addition will not negatively impact Nadex’s ability to comply with this Core Principle.

### **DCO Core Principles**

Nadex has identified the following DCO Core Principles as potentially being impacted by the additional means of funding a Nadex account: Core Principle C (Participant and Product Eligibility); and Core Principle L (Public Information).

Core Principle C requires a DCO to have appropriate admission and continuing participation requirements for clearing members that are objective, publicly disclosed, and risk-based. Moreover, the participation requirements shall permit fair and open access to the markets. As stated above, in order to continue to participate in CDNA markets, all Members will be required to produce crypto spot market information upon request. This requirement will be applied to all CDNA Members. Therefore, this addition will not negatively impact Nadex’s ability to comply with this Core Principle.

Core Principle L requires a DCO make publicly available its rules in a clear and comprehensive manner. Nadex makes its Rulebook publicly available on its website, which will be updated with the additions discussed above on the effective date. Accordingly, these amendments will not negatively affect Nadex’s ability to comply with this Core Principle.

### **Analysis of Nadex Rule 5.19 Amendment Compliance With Core Principles**

#### **DCM Core Principles**

Nadex has identified the following Designated Contract Market (“DCM”) Core Principle as potentially being impacted by the amendments to Rule 5.19 discussed herein: Core Principle 2 (Compliance with the Rules); and Core Principle 7 (Availability of General Information).

Core Principle 2 requires a DCM to, among other things, establish, monitor, and enforce access requirements, which shall be impartial, transparent and applied in a non-discriminatory manner. Given how anti-manipulation statutes and regulations have evolved in the last decade, CDNA feels that it is important to update and broaden its reach in relying on relevant regulations when taking an enforcement action against a Member suspected of manipulating or attempting to manipulate its markets. Therefore, this addition will not negatively impact Nadex’s ability to comply with this Core Principle.

Core Principle 7 requires that the DCM ensure that its Rulebook is accurate, complete, current and readily accessible to the public, and all new or amended rules, both substantive and non-substantive, shall be reflected in the Rulebook on the date of implementation. Nadex makes its Rulebook publicly available on the Nadex website. On the effective date of this submission, the Rulebook will be updated and published noting the amending of Rule 5.19(n). Accordingly, these amendments will not negatively affect Nadex’s ability to comply with this Core Principle.

#### **DCO Core Principles**

Nadex has not identified any Derivatives Clearing Organization (“DCO”) Core Principles as potentially being impacted by the amendments to Rule 5.19 discussed herein.

### **Analysis of Nadex Rule 12.87 and 12.88 Amendment Compliance With Core Principles**

#### **DCM Core Principles**

Nadex has identified the following Designated Contract Market (“DCM”) Core Principle as potentially being impacted by the amendments to Rules 12.87 and 12.88 discussed herein: Core Principle 7 (Availability of General Information).

Core Principle 7 requires that the DCM ensure that its Rulebook is accurate, complete, current and readily accessible to the public, and all or new amended rules, both substantive and non-substantive, shall be reflected in the Rulebook on the date of implementation. Nadex makes its Rulebook publicly available on the Nadex website. On the effective date of this submission, the Rulebook will be updated to reflect the amendments to the contract specifications for all contracts that will undergo an adjustment as per this submission. Accordingly, these amendments will not negatively affect Nadex’s ability to comply with this Core Principle.

### **DCO Core Principles**

Nadex has not identified any Derivatives Clearing Organization (“DCO”) Core Principles as potentially being impacted by the amendments to Rules 12.87 and 12.88 discussed herein.

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The amendments to the Rulebook are set forth in Exhibit A. Any deletions are stricken out while the amendments and/or additions are underlined.

Nadex hereby certifies that the additions contained herein comply with the Act, as amended, and the Commission Regulations adopted thereunder. No substantive opposing views were expressed to Nadex with respect to any of these actions.

Nadex hereby certifies that notice of these amendments was posted on its website at the time of this filing.

In accordance with the 10-day review period set forth in Commission Regulation 40.6(a)(3), these Rule changes will be effective as of September 22, 2023.

Should you have any questions regarding the above, please do not hesitate to contact me by telephone at (312) 884-0161 or by email at [kevin.dan@nadex.com](mailto:kevin.dan@nadex.com).

Sincerely,



Kevin J. Dan  
Chief Compliance Officer  
Chief Regulatory Officer