



August 4, 2017

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 Certification: Nadex Updates Member Disclosure Obligations and Clarifies Listing of Event Binary Contracts - 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”) hereby submits to the Commission its intent to update its Rule 3.3 (Member Obligations) regarding circumstances for which a Member has a continuous obligation to disclose, and also its Rules 12.76-12.78 to clarify the listing times for the Federal Funds, Initial Jobless Claims, and Nonfarm Payrolls Binary Contracts.

In order to become a Nadex Member, an applicant must answer certain “Qualifying Questions” on the application, regarding prior criminal and regulatory actions. Once an applicant becomes a Member, there is a continuing obligation for the Member to report to Nadex certain new criminal and/or regulatory actions that are substantially similar to those the Member was required to disclose on the Membership application. Nadex is amending its Rule 3.3 (Member Obligations) to more closely align with the language found in the Qualifying Questions on the Membership application.

Additionally, Nadex is amending its Rule 12.76 (Federal Funds Binary Contract) to more clearly express the issuance and last trading date descriptions for these contracts, and to coincide with the original intent of the specifications. Nadex is also clarifying the issuance of the Initial Jobless Claims and Nonfarm Payrolls Binary contracts in Rules 12.77 and 12.78.

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## **DCM Core Principles**

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

Core Principle 7 (Availability of General Information), implemented by Regulation 38.400, requires the DCM make available to the public accurate information concerning the terms and conditions of the contracts of the contract market. Nadex currently makes its Rulebook available to the public on its website and will continue to do so after the amendments discussed herein are implemented. The Rulebook contains the terms and conditions of the Federal Funds, Initial Jobless Claims, and Nonfarm Payrolls Binary contracts, and Nadex is amending the language in these Rules to more clearly reflect the terms and conditions under which the contracts have been historically listed. Accordingly, these amendments will not negatively affect Nadex’s ability to comply with this Core Principle.

## **DCO Core Principles**

Nadex has identified the following Derivatives Clearing Organization (“DCO”) Core Principles as potentially being impacted by the amendments discussed herein: Core Principle C Participant and Product Eligibility; Core Principle L Public Information.

Core Principle C, implemented by Regulation 39.12, requires the DCO to establish appropriate admission and continuing participation requirements for clearing members of the DCO that are objective, publicly disclosed, and risk-based. Core Principle L, implemented by Regulation 39.21, requires the DCO to make publicly available information concerning the rules of the DCO. In order to become a Member of the DCO, an applicant is required to answer six “Qualifying Questions”, relating to trading access, historical and pending criminal and regulatory background, and control of the account. Once approved for Membership, the Member has a continuing obligation to report the same incidents to the Exchange, in order for the Exchange to determine the risk level the Member may pose in light of the circumstances, and how to mitigate that risk. Nadex is amending the language in its Rulebook regarding the continuing obligation to mirror the questions on the application, although no substantive changes are being made. The information a Nadex Member is required to disclose on an ongoing basis is one of the continuing participation requirements of the Exchange. The requirements are publicly available in the Rulebook on the website, and will continue to be available after the changes discussed herein are made. Accordingly, these amendments will not negatively affect Nadex’s ability to comply with these Core Principles.

Moreover, Core Principle L requires the DCO to make publicly available the terms and conditions of each contract cleared and settled by the DCO. The terms and conditions for the Federal Funds Binary contract, which is cleared and settled by Nadex, are available in the Rulebook on the Nadex website. These terms and conditions will continue to be made publicly available after the amendments discussed herein are implemented. Accordingly, these amendments will not negatively affect Nadex’s ability to comply with these Core Principles.

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These Rule changes have been outlined in Exhibit A. The amendments to the Rulebook are set forth in Exhibit B. 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(b), Nadex plans to implement these Rule changes for the start of business on trade date August 21, 2017.

Should you have any questions regarding the above, please do not hesitate to contact me by telephone at (312) 884-0927 or by email at [jaime.walsh@nadex.com](mailto:jaime.walsh@nadex.com).

Sincerely,



Jaime M. Walsh  
Legal Counsel

**EXHIBIT A**

<b>Rule</b>	<b>Asset</b>	<b>Duration/Close Time</b>	<b>Action</b>	<b>Effective Date</b>
3.3	Member Obligations	N/A	Update disclosure obligations.	8/21/2017
12.76	Federal Funds Binary Contract	Day prior to first day of FOMC meeting	Clarify issuance	8/21/2017
12.77	Initial Jobless Claims Binary Contract	8:25am on the day of the announcement of initial jobless claims number by the US Department of Labor, Employment and Training Administration Division	Clarify issuance	8/21/2017
12.78	Nonfarm Payrolls Binary Contract	8:25am on the day of the announcement of nonfarm payrolls number by the US Department of Labor, Bureau of Labor Statistics	Clarify issuance	8/21/2017

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## **EXHIBIT B**

### Amendment of Rules 3.3, 12.76 – 12.78

*(The following Rule amendments are underlined and deletions are stricken out)*

#### RULES 1.1 – 3.2 [UNCHANGED]

#### 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 "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 access or trading privileges suspended, or membership denied, in any commodity, securities, or swaps exchange, brokerage, association, or Regulatory Agency;

(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, tax evasion, 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 governmental or 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, or has a charge pending, 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 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 may be terminated. A Person whose membership is terminated pursuant to this provision may re-apply for membership at any time following such termination.

RULES 3.4 – 12.75 [UNCHANGED]

RULE 12.76 FEDERAL FUNDS BINARY CONTRACTS

(a) SCOPE – These Rules shall apply to the Class of Contracts referred to as the Federal Funds Binary Contract issued by Nadex.

(b) UNDERLYING – The Underlying for this Class of Contracts is the Target Federal Funds Rate last reported by the Source Agency.

(c) SOURCE AGENCY – The Source Agency is the Federal Open Market Committee of the Federal Reserve (the “FOMC”).

(d) TYPE – The type of Contract is a Binary Contract.

(e) ISSUANCE – For each planned release by the Source Agency of the Underlying, Nadex will issue various Contracts, each of a different Series. A new issuance of Contracts will commence during the week prior to the announcement of the Federal Funds Rate by the FOMC. ~~no sooner than 10 business days prior to the first day of the next scheduled FOMC meeting.~~

(f) PAYOUT CRITERION – The Payout Criterion for each Contract will be set by Nadex at the time the Binary Contracts are initially issued. For the Federal Funds Binary Contract, the Payout Criteria for the Contracts will be set as follows:

(i) OPEN FEDERAL FUNDS BINARY CONTRACTS

(1) At the commencement of trading in a Federal Funds Binary Contract, Nadex shall list all eligible Payout Criteria in a range of three (3) consecutive increments of .25% with the maximum value of the Payout Criteria not to exceed 10% and the minimum value of the Payout Criteria not to fall below zero (0). For example, Nadex may list the following range of Payout Criteria: 0.25%, 0.50%, and 0.75%. For the following release, Nadex may list the following range of Payout Criteria: 1.00%, 1.25%, and 1.50%. The payout criteria will be as follows:

(2) Binary Contract 1: One Contract will have a Payout Criterion less than or equal to X1.

(3) Binary Contract 2: One Contract will have a Payout Criterion of equal to X2.

(4) Binary Contract 3: One Contract will have a Payout Criterion of greater than or equal to X3.

(5) In each case above, “X1” equals the first Payout Criteria listed, “X2” equals the second Payout Criteria listed, and “X3” equals the third Payout Criteria listed.

(6) In the event the Target Federal Funds Rate released by the Source Agency falls within the range above X1, and below X3, the contract will settle at X2.

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(ii) Nadex may list additional Federal Funds Rate Binary Contracts with different ranges of Payout Criteria on a discretionary basis in accordance with the CEA and Commission Regulations.

(g) MINIMUM TICK - The Minimum Tick size for Federal Funds Rate Binary Contracts shall be \$0.25.

(g) POSITION LIMIT – There are currently no Position Limits for the Federal Funds Rate Binary Contracts.

(h) LAST TRADING DATE – The Last Trading Date in a Series shall be no later than is the business date prior to the first day of the scheduled FOMC meeting at the time the contract is listed. The Federal Funds Contracts will stop trading at the end of the trade day on the Last Trading Date. No trading in a Federal Funds Rate Binary Contract may occur after its Last Trading Date.

(i) SETTLEMENT DATE – The Settlement Date for each Series will be the last business day of the scheduled FOMC meeting and the Target Federal Funds Rate data release by the Source Agency.

(j) EXPIRATION DATE – The Expiration Date of the Contract will be the date on which the FOMC meeting is scheduled to release the FOMC number (whether such number is actually released or not).

(k) SETTLEMENT VALUE – The Settlement Value is the amount paid to the holder of the in-the-money Contract on the Settlement Date. The Settlement Value for Federal Funds Rate Binary Contracts is \$100.

(l) EXPIRATION VALUE – The Expiration Value is the last announced level of the Target Federal Funds Rate by the Source Agency on the Expiration Date. If the level is announced as a range between X and Y %, Nadex will use the upper value of the range, Y%, as the expiration value. For example, if the Target Federal Funds Rate is announced as “0% to 0.25%”, the expiration value used by Nadex will be 0.25%. If the level announced would result in a settlement between the top of the low strike and below the bottom of the high strike, the expiration value used by Nadex will be equal to the middle strike value.

(m) CONTINGENCIES – If no level is actually announced by the Source Agency on the Expiration Date (because the FOMC meeting is unexpectedly delayed, postponed, or otherwise) the previously announced level (which is the last announced level on the Expiration Date) will be used. Expiration and settlement will not be delayed if the level scheduled to be announced is not actually announced.

## RULE 12.77 INITIAL JOBLESS CLAIMS BINARY CONTRACTS

(a) SCOPE – These Rules shall apply to the Class of Contracts referred to as the Initial Jobless Claims Binary Contract issued by Nadex.

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(b) UNDERLYING – The Underlying for this Class of Contracts is the number of claims submitted for unemployment insurance benefits (seasonally adjusted and hereinafter referred to as “Initial Jobless Claims” or “Initial Claims”) last reported by the U.S. Department of Labor, Employment and Training Administration (“ETA”) Division.

(c) SOURCE AGENCY – The Source Agency is the U.S. Department of Labor, Employment and Training Administration (“ETA”) Division.

(d) TYPE – The Type of Contract is a Binary Contract.

(e) ISSUANCE – For each planned release by the Source Agency of the Underlying, Nadex will issue various Contracts, each of a different Series. A new issuance of Contracts will commence at least two no later than three (3) business days prior to the next following the Expiration Date.

(f) PAYOUT CRITERION - The Payout Criterion for each Contract will be set by Nadex at the time the Binary Contracts are initially issued. For the Initial Jobless Claims Binary Contract, the Payout Criteria for the Contracts will be set as follows:

(i) WEEKLY INITIAL JOBLESS CLAIMS BINARY CONTRACTS

(1) At the commencement of trading in a Weekly Initial Jobless Claims Binary Contract, Nadex shall list all eligible Payout Criteria in a range of five (5) consecutive increments of either 2,000, 5,000, 10,000 or 20,000, as determined by Nadex, with the maximum value of the Payout Criteria not to exceed 1,000,000 and the minimum value of the Payout Criteria not to fall below zero (0), and the contract payout criteria of greater than or equal to ( $\geq$ ). For example, Nadex may list the following range of Payout Criteria (using a 10,000 increment): 607,000, 617,000, 627,000, 637,000, and 647,000. The following week, Nadex may list the following range of Payout Criteria (using a 5,000 increment): 610,000, 615,000, 620,000, 625,000, and 630,000.

(2) In each case above, “X” equals the first Payout Criteria listed. In the first example above, this is 607,000; in the second example above, this is 610,000.

(ii) Nadex may list additional Initial Jobless Claims Binary Contract with different ranges of Payout Criteria on a discretionary basis in accordance with the CEA and Commission Regulations.

(g) MINIMUM TICK – The Minimum Tick size for the Initial Jobless Claims Binary Contracts shall be \$0.25.

(h) POSITION LIMIT – There are currently no Position Limits for the Initial Jobless Claims Binary Contract.

(i) LAST TRADING DATE – The Last Trading Date in a Series is the same day as the Expiration Date. The Initial Claims Contracts will stop trading on the Last Trading Date at 8:25 AM ET.

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(j) SETTLEMENT DATE – The Settlement Date of the Contract shall be the same date that the Initial Jobless Claims number is released by the Source Agency.

(k) EXPIRATION DATE – The Expiration Date of the Contract shall be the date on which the Initial Jobless Claims number is scheduled to be released by the Source Agency.

(l) SETTLEMENT VALUE – The Settlement Value is the amount paid to the holder of the in the money Contract on Settlement Date. The Settlement Value of an in the money Initial Jobless Claims Binary Contract is \$100.

(m) EXPIRATION VALUE – The Expiration Value is the Initial Jobless Claims number released by the Source Agency on the Expiration Date. The Expiration Value is released by the Source Agency at 8:30 AM ET on the Expiration Date.

(n) CONTINGENCIES – If no level is actually announced on the Expiration Date due to a delay, postponement or otherwise in such release announcement by the Source Agency, the Settlement Date will be delayed until the Underlying number is released for that Series.

#### RULE 12.78 NONFARM PAYROLLS BINARY CONTRACTS

(a) SCOPE – These Rules shall apply to the Class of Contracts referred to as the Nonfarm Payrolls Binary Contract issued by Nadex.

(b) UNDERLYING – The Underlying for this Class of Contracts is the seasonally adjusted monthly change in the Nonfarm Payrolls release last reported by the Source Agency.

(c) SOURCE AGENCY – The Source Agency is the United States Department of Labor, Bureau of Labor Statistics.

(d) TYPE – The Type of Contract is a Binary Contract.

(e) ISSUANCE – For each planned release by the Source Agency of the Underlying, Nadex will issue various Contracts, each of a different Series. A new issuance of Contracts will commence at least three ~~no later than four~~ (4) business days prior to the next Expiration Date.

(f) PAYOUT CRITERION – The Payout Criterion for each Contract will be set by Nadex at the time the Binary Contracts are initially issued. For the Nonfarm Payrolls Binary Contract, the Payout Criteria for the Contracts will be set as follows:

#### (i) MONTHLY NONFARM PAYROLLS BINARY CONTRACTS

(1) At the commencement of trading in a Monthly Nonfarm Payrolls Binary Contract, Nadex shall list all eligible Payout Criteria in a range of five (5) consecutive increments between 20,000 and 150,000, as determined by Nadex, with the maximum value of the Payout Criteria not to exceed 1,000,000 and the minimum value of the Payout Criteria not to fall below -1,000,000, and the contract payout criteria of greater than or equal to ( $\geq$ ). For example, Nadex may list the following range of Payout Criteria (using the 75,000 increment): -748,000, -673,000,

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-598,000, -523,000, and -448,000. For the next issuance, Nadex may list the following range of Payout Criteria (using a 50,000 increment): 200,000, 250,000, 300,000, 350,000, and 400,000.

(2) In each case above, “X” equals the first Payout Criteria listed. In the first example above, this is -748,000; in the second example above, this is 200,000.

(ii) Nadex may list additional Nonfarm Payrolls Binary Contract with different ranges of Payout Criteria on a discretionary basis in accordance with the CEA and Commission Regulations.

(g) MINIMUM TICK – The Minimum Tick size for the Nonfarm Payrolls Binary Contracts shall be \$0.25.

(h) POSITION LIMIT – There are currently no Position Limits for the \$100 Nonfarm Payrolls Binary Contract.

(i) LAST TRADING DATE – The Last Trading Date in a Series is the same day as the Expiration Date. The Nonfarm Payrolls Contracts will stop trading on the Last Trading Date at 8:25 AM ET.

(j) SETTLEMENT DATE – The Settlement Date will be the date the Nonfarm Payrolls number is released by the Source Agency.

(k) EXPIRATION DATE – The Expiration Date of the Contract will be the date on which the Nonfarm Payrolls number is scheduled to be released.

(l) SETTLEMENT VALUE – The Settlement Value is the amount paid to the holder of the in the money Contract on Settlement Date. The Settlement Value of an in the money Nonfarm Payrolls Binary Contract is \$100.

(m) EXPIRATION VALUE – The Expiration Value is the level of the Nonfarm Payrolls release number on the Expiration Date. The Expiration Value is released by the Source Agency at 8:30 AM ET on the Expiration Date.

(n) CONTINGENCIES – If no level is actually announced on the Expiration Date due to a delay, postponement or otherwise in such release announcement by the Source Agency, the Settlement Date will be delayed until the Underlying number is released for that Series.