

The Division of Market Oversight posts on the Commission's website all new product filings, and has posted NADEX's filing for its five political event contracts. Regulation 40.11(c)(1) requires that the Commission post a notification on its website whenever it determines to carry out a 90-day review of a DCM product under Regulation 40.11(c), and that Regulation 40.6(c)(2) requires that the Commission post a notification on its website of a 30-day comment period for public comments on proposed DCM rule amendments whenever it determines to carry out a 90-day review of such amendments under Regulation 40.6(c). Therefore, in order to assist the Commission's evaluation of the proposed Nadex political event derivatives contracts, the Commission requests comments regarding NADEX's proposed contracts. The Commission welcomes all comments. However, the Commission would appreciate feedback on the following specific questions:

1. Commission Regulation 40.11(a)(1) states DCMs shall not list for trading or accept for clearing any contract that is based upon an excluded commodity, under CEA Section 1a(19)(iv), that “involves, relates to, or references . . . gaming.” Do any or all of Nadex’s proposed contracts involve, relate to, or reference gaming? If so, in what way?
2. Commission Regulation 40.11(a)(1) states DCMs shall not list for trading or accept for clearing any contract that is based upon an excluded commodity, under CEA Section 1a(19)(iv), that “involves, relates to, or references . . . an activity that is unlawful under any State or Federal law.” Do any or all of Nadex’s proposed contracts involve, relate to, or reference an activity that is unlawful under any State or Federal law? Please identify any relevant statutory or regulatory provisions.
3. CEA Section 5(d)(3) (DCM Core Principle 3) requires that DCMs only list contracts that are not readily susceptible to manipulation. Would Nadex’s proposed contracts be in compliance with this requirement? Could the trading of political event contracts, such as those proposed by Nadex, be contrary to the public interest by creating incentives to influence prices in the contracts in order to affect election results?
4. Assuming *arguendo* that the outcome of the US 2012 federal elections will have macro- and micro- economic consequences, as Nadex contends in its submission, would political event derivatives contracts provide any utility as a commercial risk management tool? If you believe that the contracts would provide effective risk management, please provide examples of possible hedging strategies and how political contract trades could offset commercial risk.