

**Rule Self-Certification**

June 7, 2012

Office of the Secretary  
Commodity Futures Trading Commission  
Three Lafayette Center  
1155 21<sup>st</sup> St., N.W.  
Washington, D.C. 20581

Re: Rule E37, Limitation of Liability for NFX XL  
Reference File SR-NFX-2012- 15

Ladies and Gentlemen:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Sections 40.6 of the regulations promulgated by the Commodity Futures Trading Commission under the Act, the NASDAQ OMX Futures Exchange, Inc. (“NFX” or “Exchange”) is amending Rule E37, Limitation of Liability for NFX XL. The text of the amendment to Rule E37 is set forth below.

*New language is underlined; deletions are ~~stricken through~~*

***Rule E37. Limitation of Liability For NFX XL***

*(a) Except for any party found to have engaged in willful or wanton misconduct, neither the Exchange (which for purposes of this Rule E37 includes its parents, subsidiaries and affiliates), its Members or Clearing Members, nor any of its or their respective officers, directors, employees, or agents shall be liable to any Person (including, but not limited to, a Customer) for any losses, damages, costs or expenses (including, but not limited to, loss of profits, loss of use, direct, indirect, incidental or consequential damages) arising from (1) any failure or malfunction of NFX XL or the Clearing Corporation or any Exchange services or facilities used to support NFX XL including but not limited to any user interface or any inability to enter or cancel Orders (the "NFX XL Complex"), or (2) any fault in delivery, delay, omission, suspension, inaccuracy or termination, or any other cause, in connection with the furnishing, performance, maintenance, use of or inability to use all or any part of the NFX XL Complex. The foregoing shall apply regardless of whether a claim arises in contract, tort, negligence, strict liability or otherwise. The foregoing shall not limit the liability of any Member, Member Organization, Clearing Member, or any of their respective officers, directors or employees for any act, incident, or occurrence within their control. For purposes of this Rule E37, the "NFX XL Complex" shall include any exchange facilities or services used to support block trades and exchange of*

~~futures for physical transactions~~ related positions pursuant to Rules E23 and E38.

(b) – (d) No Change.

NFX recently amended Exchange Rule E38 to permit various EFRP transactions, in addition to EFP transactions which the Exchange had previously allowed.<sup>1</sup> The enclosed amendment to Rule E37 is a conforming change to extend the Limitation of Liability coverage it provides to all EFRP transactions permitted under revised Rule E38, in addition to the original EFP transactions Rule E38 allowed.

There were no opposing views among the NFX's Board of Directors, members or market participants. NFX hereby certifies that the amendment complies with the Commodity Exchange Act and regulations thereunder. The Exchange also certifies that notice of pending certification and a copy of this submission have been concurrently posted on the Exchange's website at <http://www.nasdaqomxtrader.com/Micro.aspx?id=PBOToverview>.

Regards,



Daniel R. Carrigan  
President

cc: Mr. J. Goodwin  
National Futures Association

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<sup>1</sup> See SR-NFX-2012-11. Rule E38 as recently amended provides that an EFRP can be one of following transactions. An Exchange for Physical (“EFP”) is a privately negotiated and simultaneous exchange of an Exchange futures position for a corresponding cash position. An Exchange for Risk (“EFR”) is a privately negotiated and simultaneous exchange of an Exchange futures position for a corresponding OTC swap or other OTC instrument. An Exchange of Options for Options (“EOO”) is a privately negotiated and simultaneous exchange of an Exchange option position for a corresponding OTC option position or other OTC instrument with similar characteristics.