



**Timothy G. McDermott**  
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October 11, 2013

Via E-Mail: [submissions@cftc.gov](mailto:submissions@cftc.gov)

Ms. Melissa Jurgens  
Secretary of the Commission  
Office of the Secretariat  
Commodity Futures Trading Commission  
3 Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

**RE: Notice of Emergency Action: Initial Jobless Claims Binary Contracts Will Not Be Listed Week of October 14, 2013; EUR/GBP and AUD/JPY Binary Contracts Delayed - Submission Pursuant to Commission Regulation §40.6(a)**

Dear Ms. Jurgens:

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 (the “Commission”) under the Act (the “Regulations”), North American Derivatives Exchange, Inc. (“Nadex”, the “Exchange”) hereby submits to the Commission this notice of emergency action.

Nadex has determined that it will not list its Initial Jobless Claims Binary contracts for the week of October 14, 2013. Additionally, Nadex will delay the implementation of its new EUR/GBP and AUD/JPY Binary contracts, which were originally scheduled to be listed for the open of trade date October 14, 2013 as noted in its self-certification submission filed on Friday, September 27, 2013. The new EUR/GBP and AUD/JPY Binary contracts are being postponed as a result of the lapse in appropriations and the curtailment of CFTC regulatory review activity. This emergency action is deemed necessary as the shutdown of the federal government has the potential to materially affect the performance of the aforementioned contracts.

The Nadex Initial Jobless Claims Binary contracts are based upon the underlying Jobless Claims figures released by the U.S. Department of Labor. The next scheduled release date for the Jobless Claims is October 17, 2013. Consequently, the government shutdown has the potential to affect the release of these figures, thereby rendering the Nadex Initial Jobless Claims Binary contracts potentially unable to be settled. Furthermore, as Nadex submitted its self-certification for the listing of its new EUR/GBP and AUD/JPY Binary contracts on Friday, September 27, 2013 and the lapse in government appropriations went into effect on October 1, 2013, the Commission has not had sufficient time to review the terms and specifications for these new contracts.

North American Derivatives Exchange, Inc., 311 South Wacker Drive, Suite 2675, Chicago, IL 60606

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As the government shutdown has been deemed to potentially materially affect the performance of the Initial Jobless Claims Binary contracts traded on Nadex, Nadex is taking this action pursuant to its emergency authority under Nadex Rule 2.4(c)(iii) (due to a “circumstance that may materially affect the performance of the Contracts traded on Nadex”) and 2.4(c)(iv)(due to an “action taken by the United States . . . that may have a direct impact on trading on Nadex”).

As neither the Initial Jobless Claims Binary contracts, nor the EUR/GBP and AUD/JPY Binary contracts have been listed yet, no open interest or resting orders exist in these markets.

The date of when Nadex will resume listing its Initial Jobless Claims Binary contracts and its initial listing of the new EUR/GBP and AUD/JPY Binary contracts will be determined subsequent to resumption of regulatory review activity at the Commission, and Nadex will post a notice on its website of its plans to resume listing these contracts at that time.

No substantive opposing views were expressed to Nadex with respect to this emergency action.

This emergency action is authorized by the Chief Regulatory Officer and the Chief Compliance Officer of Nadex per Nadex Rule 2.4.

Nadex hereby certifies that the revisions contained herein comply with the Act, as amended, and the Commission Regulations adopted thereunder.

Nadex hereby certifies that a copy of this amendment was posted on its website at the time of this filing.

Should you have any questions regarding the above, please do not hesitate to contact me by telephone at (312) 884-0171 or by email at [tim.mcdermott@nadex.com](mailto:tim.mcdermott@nadex.com).

Sincerely,



Timothy G. McDermott  
General Counsel and Chief Regulatory Officer

cc: [DMOSubmission@cftc.gov](mailto:DMOSubmission@cftc.gov)  
David Van Wagner – CFTC  
Robert Wasserman – CFTC  
Matthew Hunter – CFTC

Yossi Beinart - Nadex

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**North American Derivatives Exchange  
Emergency Action**

Per North American Derivatives Exchange Rule 2.4, the undersigned two members of the Management Team have authorized the adoption of a temporary emergency rule to address the emergency following emergency:

Indicate the type of emergency being addressed (as listed in Rule 2.4(c)) (check appropriate):

- (i)  any activity that manipulates or attempts to manipulate the Market;
- (ii)  any actual, attempted, or threatened corner, squeeze, or undue concentration of positions;
- (iii)  any circumstance that may materially affect the performance of the Contracts traded on, Nadex;
- (iv)  any action taken by the United States, any foreign government, any state or local governmental body, any other contract market or board of trade, or any other exchange, market, facility, or trade association (foreign or domestic) that may have a direct impact on trading on Nadex;
- (v)  any circumstances that may have a severe, adverse impact upon the physical functions of Nadex including, for example, natural disasters such as fire or flood, terrorist acts such as bomb threats, physical plant breakdowns such as plumbing, heating, or air conditioning problems, system breakdowns such as power, telephony, cable, trading systems, or computer systems failures or interruptions to communications, the network, or the Internet;
- (vi)  the imposition of any injunction or other restraint by any government agency, court, or arbitrator that may affect the ability of a Member to perform on Contracts;
- (vii)  any circumstance in which it appears that a Nadex Member or any other person is in such operational condition, or is conducting business in such a manner, that such person cannot be permitted to continue in business without jeopardizing the safety of Nadex Members or Nadex itself; and
- (viii)  any other unusual, unforeseeable, and adverse circumstance which, in the opinion of the governing board, requires immediate action and threatens or may threaten such things as the fair and orderly trading in, or the liquidation of or delivery pursuant to Contracts traded on Nadex.

The reason for the emergency action is: Nadex intends to implement an Emergency Rule pursuant to Nadex Rule 2.4 in order to provide notice that it will not be listing its Initial Jobless Claims Binary Contracts for the week of October 14, 2013 as a result of the federal government shutdown. The Nadex Initial Jobless Claims Binary contracts are based upon the underlying Jobless Claims figures released by the U.S. Department of Labor. The next scheduled release date for the Jobless Claims is October 17, 2013. This action is being taken as the government shutdown has the potential to affect the release of these figures, thereby rendering the Nadex Initial Jobless Claims Binary contracts potentially unable to be settled, and thus materially affecting the performance of those contracts. The date for when Nadex will return to listing its

Initial Jobless Claims Binary contracts will be determined subsequent to resumption of regulatory review activity at the CFTC.

Additionally, Nadex will delay the implementation of its new EUR/GBP and AUD/JPY Binary contracts, which were originally scheduled to be listed for the open of trade date October 14, 2013 as noted in its self-certification submission filed on Friday, September 27, 2013. The postponement is resulting from the lapse in appropriations and the curtailment of CFTC regulatory review activity. The new listing date for the new Nadex EUR/GBP and AUD/JPY Binary contracts will be determined subsequent to resumption of regulatory review activity at the CFTC.

By:   
Title: Chief Regulatory Officer  
Date: 11 Oct 2013

and

By:   
Title: CHIEF COMPLIANCE OFFICER