

**Exhibit A**

<b>Rule</b>	<b>Asset</b>	<b>Duration/ Close Time</b>	<b>Action</b>	<b>Effective Date</b>
9.2	Investigations, Hearing, and Appeals	N/A	Add language to include mailing of reports, decisions, notices to Member.	11/19/2012
9.4	Notice and Publication of Decision	N/A	Amend language and time frame regarding notice of disciplinary action provided to the Commission; include public notice of action on website.	11/19/2012

## **Exhibit B**

### **Amendment of 9.2 and 9.4**

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

RULES 1.1 – 9.1 [UNCHANGED]

#### **RULE 9.2 INVESTIGATIONS, HEARINGS, AND APPEALS**

(a) Nadex has a compliance department consisting of one or more compliance staff. The Chief Regulatory Officer is responsible for overseeing the compliance department. The Compliance Department shall investigate unusual trading activity or other activity that the Compliance Department has reasonable cause to believe could constitute a violation of these Rules. Nadex retains hearing officers, who adjudicate findings by the Compliance Department that are disputed by Members. Hearing officers and the Compliance Department may not communicate regarding the merits of a matter brought before the hearing officer without informing the Member who is the subject of the communication of its substance and allowing the Member an opportunity to respond. The Compliance Department and hearing officers may compel testimony, subpoena documents, and require statements under oath from any Member or its authorized representative. Hearing officers, Compliance Department staff and other employees or agents of Nadex working under their supervision, may not be a Member or an authorized representative of a Member or trade, directly or indirectly, in any commodity interest traded on or subject to the rules of any registered contract market.

(b) The Compliance Department will endeavor to complete any investigation within four months, unless there exists significant reason to extend it beyond such period. Upon the conclusion of any investigation, the Compliance Department will draft a document detailing the facts that led to the opening of the investigation, the facts that were found during the investigation, and the Compliance Department's analysis and conclusion. If the Compliance Department concludes that there is reasonable cause to believe a Member has violated Nadex's Rules or other applicable statutes or regulations, the Compliance Department will submit ~~by electronic mail~~ to the Member whose activity is the subject of the investigation a report, by electronic mail and U.S. Postal mail to that Member's last known address, that will include:

- (i) the reason the investigation was begun;
- (ii) the charges or a summary of the charges, including the rule or rules alleged to have been violated;
- (iii) the response, if any, or a summary of the response;
- (iv) a summary of the investigation conducted;
- (v) findings of fact and the Compliance Department's conclusions as to each charge, including which of these Rules the Member or its authorized representative violated, if any;
- (vi) a summary of the Member's, and any relevant authorized representative's, disciplinary history, if any; and

(vii) the penalty, if any, proposed by the Compliance Department.

(c) If the Compliance Department institutes an investigation in which any affiliate of Nadex is a subject, Nadex's Chief Regulatory Officer shall notify the Commission's Division of Market Oversight of that fact. At the conclusion of any such investigation, the Chief Regulatory Officer shall provide the Commission's Division of Market Oversight with a copy of the documentation specified in subparagraph (b) of this Rule.

(d) The Member whose activity is the subject of the investigation may contest the Compliance Department's findings by forwarding a response to those findings by electronic mail to the Compliance Department within 15 days. The Member has a right to examine all relevant books, documents, or other evidence in the possession or under the control of Nadex, except that Nadex may withhold from inspection any documents that (i) are privileged or that constitute attorney work product, (ii) were prepared by any employee of Nadex but which will not be offered in evidence in the disciplinary proceedings, (iii) may disclose a technique or guideline used in examinations, investigations, or enforcement proceedings, or (iv) disclose the identity of a confidential source. The Member's response must contain a detailed response to the findings and conclusions as to each charge and any other information the Member thinks is relevant.

(e) If the findings of the Compliance Department are not contested by the Member, Nadex will deem those findings admitted by the Member, the findings of fact and the Compliance Department's conclusions as to each charge shall become final and the Compliance Department shall impose the penalty (if any) proposed by the Compliance Department. The Member will be notified of the imposition of any penalty and sent a copy of the notice of disciplinary action by electronic mail and U.S. Postal mail to that Member's last known address.

(f) If the findings of the Compliance Department are contested, the Compliance Department's report and the Member's response will be submitted to a Nadex hearing officer. The hearing officer may not have a financial, personal or other direct interest in the matter under consideration.

(i) The hearing officer will conduct a hearing with the Compliance Department and the Member within 20 business days of receipt of the Member's response contesting the compliance officer's finding and/or proposed sanction which the parties may attend telephonically. The formal rules of evidence shall not apply, but the hearing must be fair.

(ii) Prior to the hearing, the parties may (but need not) submit proposed findings, briefs, and exhibits (including affidavits), and during the hearing the parties may present witnesses.

(iii) Within 20 business days after that hearing, the hearing officer will issue findings, which will be delivered to the Member by electronic mail and U.S. Postal mail to the Member's last known address. The findings of the hearing officer will contain the following information:

- (1) a summary of the charges and any answer to the charges;
- (2) a summary of the evidence received;

- (3) findings and conclusions with respect to each charge;
- (4) an indication of each specific rule that the member was found to have violated;
- (5) a declaration of any penalty to be imposed on the Member as the result of the findings and conclusions;
- (6) the effective date and duration of that penalty; and
- (7) a statement that the Member has the right to appeal any adverse decision by the hearing officer to the Nadex board of directors, but must do so within 15 days.

(i) The hearing officer's decision shall be final on the date it is signed by the hearing officer. The hearing officer's decision shall become the final decision of Nadex after the appeal period has lapsed.

(ii) The hearing will be recorded, and all information submitted by the parties (including the Compliance Department's report and the Member's response) as well as the recording of the hearing, will be preserved by the Compliance Department, along with the hearing officer's findings, as the record of the proceedings (the "hearing record").

(g) Either the Member or the Compliance Department may appeal the decision of the hearing officer within 15 days by filing an appeal by electronic mail with the Nadex board of directors and forwarding a copy to the other parties to the appeal. Any penalties will be stayed pending appeal unless the hearing officer determines that a stay pending appeal would likely be detrimental to the exchange, other Members, or the public. The board of directors will review the hearing record and any information submitted by the Compliance Department and the Member on appeal and issue its decision, which shall be final on the date of such issuance. The ~~Member~~ shall be notified of the decision by electronic mail and by U.S. Postal mail to the Member's last known address. The hearing record, any information submitted on appeal, and the board's decisions shall be preserved as the record on appeal. The decision will contain the information listed in paragraph (f) of this Rule, except for (f)(vi), and will also contain:

(i) a statement that any person aggrieved by the action may have a right to appeal the action pursuant to Part 9 of the Commission's Regulations, within 30 days of service; and

(ii) a statement that any person aggrieved by the action may petition the Commission for a stay pursuant to Part 9 of the Commission's Regulations, within 10 days of service.

#### RULE 9.3 [UNCHANGED]

#### RULE 9.4 NOTICE AND PUBLICATION OF DECISION

(a) Nadex will provide to the person charged, and concurrently to the Commission, a copy of an adverse investigation report notice of the disciplinary action, appeal determination, or settlement in which sanctions are imposed, no later than two business days ~~within 30 days~~ after it becomes final in accordance with the provisions of Commission Regulation 39.19(c)(4)(xi) ~~9.11~~.

(b) Within ~~30~~two business days after a decision becomes final, notice of any decision providing that a Member is suspended, expelled, disciplined or denied access to the Exchange shall be provided to the National Futures Association for inclusion in its internet accessible database of disciplinary matters. ~~Additionally, Nadex will promptly report such decisions on its website.~~

(c) Nadex will make public notice of the disciplinary action when that action becomes final by posting on its website the information required by Commission Regulation 9.11, for a period of five consecutive business days in accordance with Commission Regulation 9.13.

RULE 9.5 – 12.78 [UNCHANGED]

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