
NORTH AMERICAN DERIVATIVES EXCHANGE, INC.
NOTICE OF DISCIPLINARY ACTION

FILE NO.: TPI_2019_050

MEMBER: Monika Hergeth

NADEX RULES:

NADEX MEMBERSHIP AGREEMENT

Member Acknowledgements and Authorizations, Section (h):

You acknowledge and agree that You will, following a request by Nadex, promptly provide to Nadex financial or other information as Nadex may reasonably request or as may be required for Nadex to respond to a request for information from the Commodity Futures Trading Commission (“CFTC”) or other regulatory or judicial bodies.

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. . . .

RULE 5.19 PROHIBITED TRANSACTIONS AND ACTIVITIES

- (h) No Person shall engage in any activity that presents a risk of harm to Nadex, its Members, or the public.
- (i) No Person shall engage in any activity that adversely affects the integrity of the Market or its underlying systems.
- (n) No Person shall engage in any activity that is intended to, or has the effect of, manipulating the market in violation of Sections 6(c) and 9(a)(2) of the CEA and no Person shall engage in any other activity that would violate the CEA or the Commission’s Regulations.
- (t) No Member shall engage in conduct or practices inconsistent with just and equitable principles of trade or conduct or practices detrimental to the best interests of the Exchange, its Members and/or FCM Customers.

FINDINGS: On December 3, 2019, the Nadex Compliance Department sent Monika Hergeth (“Hergeth”) an Account Inquiry letter requesting, among other things, general background information, source of funds information and details regarding her order and trading activity. Despite follow-up communications providing Hergeth with additional extensions to respond to the request for information, she failed to comply and/or respond to the inquiry letter. Based on Hergeth’s failure to produce the requested documentation and information, she was notified that an Investigation had been opened on December 27, 2019.

During the course of its investigation, the Compliance Department analyzed the order and trading activity throughout the life of Hergeth’s Nadex account. Through this review, the Compliance Department discovered that Hergeth engaged in or attempted to engage in a manipulative scheme to defraud Nadex markets in at least 9 binary option contracts for FX pairs GBP/USD, EUR/USD, and USD/CAD between August 21, 2018 and September 20, 2018. The presence of a manipulative scheme was further enhanced upon review of Hergeth’s account and background information, where it was discovered that she had significant connections with other Nadex Members via trading activity.

Based on Nadex’s investigation, the Compliance Department determined that Hergeth violated Rule 3.3(a) and Member Acknowledgements and Authorizations, Section (h) of the Nadex Membership Agreement when she failed to cooperate with the Compliance Department’s inquiry regarding these matters. Additionally, Hergeth’s manipulative activity was to the detriment of other market participants. Engaging or attempting to engage in conduct and practices that are manipulative and inconsistent with just and equitable principles of trade, and that pose a risk to the Exchange, its members, and/or to the public, is in contravention of Nadex Rules 5.19(h), 5.19(i), 5.19(n) and 5.19(t). Accordingly, the Compliance Department has concluded that Hergeth violated Nadex Rules 5.19(h), 5.19(i), 5.19(n) and 5.19(t).

PENALTY: As a result of the aforementioned violations, the Nadex Compliance Department has deemed it appropriate to assess Monika Hergeth a fine of \$11,000.00 and order her to pay disgorgement in the amount of \$6,200.50. Additionally, Monika Hergeth’s Nadex Membership has been revoked, her account terminated, and she has been permanently banned from trading on Nadex Markets, either directly for her own account or through an intermediary, or as an authorized trader on behalf of any other account.

EFFECTIVE DATE: January 6, 2022