



May 9, 2022

Via CFTC Portal Submissions

Mr. Christopher Kirkpatrick  
Secretary of the Commission  
Office of the Secretariat  
Commodity Futures Trading Commission  
3 Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington D.C. 20581

**RE: Self-Certification Rule Amendments: Remove Minimum Deposit Requirement for Membership (and End Incentive Program), Amend Methods of Deposit – Submission Pursuant to Commission Regulation §40.6(a)**

Dear Mr. Kirkpatrick:

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 its intent to end its “\$0 Minimum Deposit Promotion” and permanently remove the \$250 minimum deposit amount as required by Nadex Rule 3.1 in order to be eligible for Nadex Membership. Additionally, Nadex is expanding the means by which a Member may deposit funds into their Nadex account.

**I. Removal of Minimum Deposit Membership Requirement and Termination of Promotion**

On August 13, 2021, Nadex submitted to the Commission the Terms and Condition for its “\$0 Minimum Deposit Promotion” (the “Promotion”) in submission number 2108-1312-2257-15. The Promotion was twice extended, and is currently scheduled to end on May 31, 2022. The

North American Derivatives Exchange, Inc., 200 West Jackson Blvd., Suite 1400, Chicago, IL 60606

US Toll-Free +1 (877) 77 NADEX info@nadex.com www.nadex.com

No. 20220509(1)

Promotion temporarily removed the required minimum \$250 deposit in order to become a Trading Member, as that term is defined in Nadex Rule 1.1<sup>1</sup>.

Since the Promotion launched in August 2021, the Exchange has experienced record highs in terms of ‘application to fund’, and ‘application to trade’ conversion rates. Removing the minimum deposit Membership eligibility requirement resulted in a 9% increase in those applicants who go on to fund their Nadex accounts, and a 5% increase in applicants who go on to fund *and* trade their Nadex accounts.

Due to the success of the Promotion, Nadex has decided to remove the \$250 minimum deposit requirement permanently. Applicants for membership will need to meet all other eligibility requirements set forth in the Nadex Rulebook and Membership Agreement, and will still be required to make a *successful* initial deposit in any amount, and in accordance with Rule 3.1(a)(i)(2) and 3.1(b). The transition from the Promotion to the new Membership eligibility requirements will be seamless, and the Promotion will terminate on the effective date of the Rule change.

### DCM Core Principles

Nadex has identified the following DCM Core Principles as potentially being impacted by this amendment: Core Principle 2 (Compliance with Rules); Core Principle 7 (Availability of General Information); Core Principle 11 (Financial Integrity of Transactions); Core Principle 12 (Protection of Markets and Market Participants).

Core Principle 2 requires a DCM to establish appropriate access requirements, require participants to consent to the DCM’s jurisdiction, prohibit abusive trading practices on its markets, to have the capacity to detect and investigate rule violations, establish and maintain appropriate Compliance Department resources, maintain an automated trade surveillance system to monitor the markets in real-time, establish and maintain procedures that require its Compliance staff to conduct investigations of potential rule violations, and finally, to have the ability to obtain information. Until the Promotion was launched in August 2021, there were three main parts to the application and onboarding process to gain access to the markets: 1) identity verification, 2) Compliance review of the application “qualifying questions”, 3) a successful \$250 minimum deposit. Following the implementation of the Promotion which removed the third requirement for Membership, the Exchange did not experience any notable increase in nefarious activity, and none that could be traced to the removal of the minimum deposit. As is Nadex’s current practice and going forward, applicants will continue to undergo a review process that verifies the applicant’s identity and investigates any negative regulatory history or criminal background that could impact the marketplace, and Nadex expects these access requirements will remain a sufficient gateway to

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<sup>1</sup> Unless otherwise defined herein, capitalized terms shall have the same definition as set forth in Rule 1.1 of the Nadex Rulebook.

entry as it has been throughout the Promotion. On the application for Membership, all applicants agree to comply with the Nadex Rules. Pursuant to Nadex Rule 2.10, all market participants agree to Nadex's jurisdiction. Nadex Rule 5.19 identifies trading practices that are prohibited on the Exchange, the violation of which could lead to a formal investigation and disciplinary action as set forth in Chapter 9 of the Rulebook. Nadex has a well-staffed and experienced Compliance and Regulatory Department who monitor all Nadex markets, conduct investigations, and impose disciplinary action. Nadex has an automated trade surveillance system, Scila, which monitors all markets in real-time at all hours the Exchange is open and generates alerts based on the customized parameters set by the Regulatory Department. Finally, Nadex Rule 3.3 requires market participants to cooperate promptly and fully with Nadex in any investigation, call for information, inquiry, audit, exam, or proceeding, which includes the market participant's activity in any underlying related market. Accordingly, the implementation of the amendments discussed herein will not negatively impact Nadex's ability to comply with this Core Principle.

Core Principle 7 requires a DCM to make its Rulebook publicly available. The Nadex Rulebook is publicly available on the Nadex website. Rule 3.1 sets out the eligibility requirements for Membership. Following the implementation of the amendments described herein, the eligibility requirements will be updated and the Rulebook will continue to be available on the website.

Core Principle 11 requires a DCM to ensure the financial integrity of transactions entered on the Exchange. All contracts traded at Nadex are fully collateralized and cleared through the Nadex clearinghouse. Nadex has a cap check system that ensures the Member has sufficient funds to fully collateralize the trade at the time the order is submitted to the Exchange. If a Member does not have sufficient funds the order is rejected. Nadex has a well-staffed Treasury Department that diligently monitors all financial transactions and notifies the Compliance Department to further investigate upon discovering any unusual activity.

Core Principle 12 requires a DCM to protect markets and market participants from abusive practices, to promote fair and equitable trading, and to have and enforce rules that are designed to promote fair and equitable trading and protect the market and its participants from abusive practices including fraud or unfair actions. Nadex had designed the Terms and Conditions of the Promotion to discourage abuse of the Promotion and would penalize those found to have violated the intent and spirit of the Promotion or engaged in fraudulent activity in connection with the Promotion. Nadex did not have any instances of a Member abusing the Promotion or engaging in nefarious activity resulting from the Promotion. Accordingly, Nadex does not believe that removing the minimum deposit amount on a permanent basis will have a negative impact on the markets and will not increase the potential for abusive practices or an unfair or unequitable trading experience

## DCO Core Principles

Nadex has identified the following DCO Core Principles as potentially being impacted by this amendment: Core Principle C (Participant and Product Eligibility); Core Principle L (Public Information).

Core Principle C requires a DCO to have appropriate admission and continuing participation requirements for clearing members that are objective, publicly disclosed, and risk-based. As indicated previously, prior to the launch of the temporary Promotion, in order to gain access to the Nadex markets an applicant would have to verify their identification, answer a series of qualifying questions which are reviewed by the Compliance Department, and successfully deposit \$250. Removing the minimum deposit requirement since August 2021 has not resulted in an increase in nefarious activity, or any negative impact to the quality or integrity of the marketplace. The Promotion has been available to the public for over a year and a half and has demonstrated to Nadex that the identification verification and qualifying questions review process are appropriate requirements to gain access to the Nadex markets and requiring a \$250 minimum deposit does not provide any significant benefit to the Exchange or its Members. Nadex makes its eligibility requirements publicly available in Rule 3.1. The Rule will reflect the new eligibility requirements following implementation of the removal of a minimum deposit. The access requirements are applied uniformly to all applicants.

Core Principle L requires a DCO make publicly available its rules in a clear and comprehensive manner. The eligibility requirements for Membership are set forth in Rule 3.1, which will be updated with the amendments described herein, and posted on the Nadex website.

## **II. Expansion of Funding Methods**

In order to fund a Nadex account, a Member must either fund the account directly from a US Financial Institution, held in that Member's name, either via ACH, debit card, or wire transfer. A Member who is not a US resident may fund the account either directly from a US Financial Institution, held in that Member's name, or from the Member's foreign account through a Correspondent Account as defined by 31 CFR 1010.605(c) either via debit card or wire transfer. In order to facilitate the funding process and improve the client experience, Nadex plans to allow a Member's account to be funded by means of a registered money services business or other similarly authorized institution. Prior to accepting funds from a registered money services business, Nadex will review the business to ensure it is a registered entity and has know-your-customer and anti-money laundering procedures that meet or exceed Nadex's own procedures. Nadex will also require that the registered money services business verify that the funds it will transfer into the Nadex segregated Member Property account originate from a Financial Institution or Foreign Bank, as those terms are defined in 31 CFR 1010.100(t) and (u), held in the Member's name.

## DCM Core Principles

Nadex has identified the following DCM Core Principles as potentially being impacted by the additional means of funding a Nadex account: Core Principle 2 (Compliance with Rules); Core Principle 7 (Availability of General Information); Core Principle 11 (Financial Integrity of Transaction).

Core Principle 2 requires a DCM to, among other things, establish, monitor, and enforce access requirements, which shall be impartial, transparent and applied in a non-discriminatory manner. Currently, in order to be eligible for Nadex Membership and gain access to the Nadex markets, an applicant must have an account in their name at either a US Financial Institution that will be used to directly fund their Nadex account, or an account at a Foreign Bank that will be used to fund the Nadex account through a Correspondent Account. The addition of permitting funding from a US Financial Institution or Foreign Bank through a registered money services business will be available to all Members, provided that the particular money services business a Member desires to transfer funds through has been approved by Nadex. Once a particular money services business has been vetted and approved by Nadex, it will be available for use by any other Member who meets the money services business' own requirements. Nadex anticipates that by providing an additional means of funding a Member account will increase convenience during the onboarding process and promote greater access to its markets. Therefore, this addition will not negatively impact Nadex's ability to comply with this Core Principle.

Core Principle 7 requires that the DCM ensure that its Rulebook is accurate, complete, current and readily accessible to the public, and all new or amended rules, both substantive and non-substantive, shall be reflected in the Rulebook on the date of implementation. Nadex makes its Rulebook publicly available on the Nadex website. On the effective date of this submission, the Rulebook will be updated and published noting the ability to fund a Member's Nadex account through an approved registered money services business.

Core Principle 11 requires the DCM to ensure the financial integrity of transactions entered into, on, or through the facilities of the DCM by, among other things, implementing minimum financial standards and protecting funds. All Nadex contracts are currently fully collateralized, and all orders are subject to a "cap-check" prior to acceptance by the Exchange to ensure sufficient funds exist in the Member's account to fully collateralize the transaction should the order be executed. The same cap-check will be applied regardless of whether a Member makes a deposit directly from a US Financial Institution account, from a Foreign Bank account through a Correspondent Account, or from a US Financial Institution or Foreign Bank account through an approved registered money services business. All funds are held in a segregated account at Nadex's settlement bank, identified as "Money Property – Cleared Swaps Proprietary Account", which is reviewed daily by the Finance and Compliance Departments.

## DCO Core Principles

Nadex has identified the following DCO Core Principles as potentially being impacted by this addition: Core Principle C (Participant and Product Eligibility); Core Principle F (Treatment of Funds); Core Principle L (Public Information).

Core Principle C requires a DCO to have appropriate admission and continuing participation requirements for clearing members that are objective, publicly disclosed, and risk-based. Moreover, the participation requirements shall permit fair and open access to the markets. As stated above, in order to gain access to the Nadex markets a Member must fund his/her/its Nadex account from an account in the Member's name at a US Financial Institution or Foreign Bank. The additional means of funding through a registered money services business will be available to all Members, provided that the particular money services business has been vetted and approved by Nadex, after which, it will be available for use by any other Member who meets the money services business' own requirements. Therefore, this addition will not negatively impact Nadex's ability to comply with this Core Principle.

Core Principle F requires a DCO to establish standards and procedures to protect and ensure the safety of funds belonging to its members. Nadex holds all Member funds in a bank account identified as "Member Property – Cleared Swaps Proprietary Account" and all funds are separate from Nadex's operating funds. The account balance is reviewed daily by the Finance and Compliance Departments. Funds received by an approved registered money services business will likewise be held in a segregated account and identified as Member Property.

Core Principle L requires a DCO make publicly available its rules in a clear and comprehensive manner. Nadex makes its eligibility requirements and acceptable means of funding as set forth in Rule 3.1 of the Rulebook on its website, which will be updated with the additions discussed herein on the effective date.

### **III. Closing**

In accordance with §40.2(a)(3) of the Commission's Regulations, Nadex plans to implement these Rule changes for the start of business on or after trade date May 23, 2022.

A complete index of the DCM and DCO Core Principles that indicates whether the Core Principle is applicable and addressed in the text of this submission is attached in Exhibit A. The Rule changes have been outlined in Exhibit B. The amendments to the Rulebook are set forth in Exhibit C and amendments to the Fee Schedule are in Exhibit D. Any deletions are stricken out while the amendments and/or additions are underlined.

Nadex hereby certifies that the additions contained herein comply with the Act, as amended, and the Commission Regulations adopted thereunder. No substantive opposing views were expressed to Nadex with respect to any of these actions.

North American Derivatives Exchange, Inc., 200 West Jackson Blvd., Suite 1400, Chicago, IL 60606

US Toll-Free +1 (877) 77 NADEX info@nadex.com www.nadex.com

Nadex hereby certifies that a copy of these additions 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) 884-0927 or by email at [Jaime.walsh@nadex.com](mailto:Jaime.walsh@nadex.com).

Sincerely,



Jaime Walsh  
Head of Legal

## EXHIBIT A

### Designated Contract Market (“DCM”) Core Principles

Core Principle Number	Core Principle Name	Addressed in or Not Applicable to Self-Certification
1	Designation as Contract Market	Not applicable (designation granted)
2	Compliance with Rules	Addressed in I, II
3	Contracts Not Readily Subject to Manipulation	Not applicable to this submission
4	Prevention of Market Disruption	Not applicable to this submission
5	Position Limitations or Accountability	Not applicable to this submission
6	Emergency Authority	Not applicable (Nadex Rulebook, 2.4 Emergency Rules)
7	Availability of General Information	Addressed in I, II
8	Daily Publication of Trading Information	Not applicable to this submission
9	Execution of Transactions	Not applicable to this submission
10	Trade Information	Not applicable to this submission
11	Financial Integrity of Transactions	Addressed in I, II
12	Protection of Markets and Market Participants	Addressed in I
13	Disciplinary Procedures	Not applicable (Nadex Rulebook, Chapter 9 Rule Enforcement)
14	Dispute Resolution	Not applicable (Nadex Rulebook, 10.2 – 10.4 Arbitration)
15	Governance Fitness Standards	Not applicable (Nadex Rulebook, 2.2 Service Restrictions, 11.2 Service and Disciplinary History)

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16	Conflicts of Interest	Not applicable (Nadex Rulebook, 2.6 Voting, 2.9 Trading Limitations, 11.1 Non-Public Information, 11.3 Voting)
17	Composition of Governing Boards of Contract Markets	Not applicable (internal review and appointment of directors)
18	Recordkeeping	Not applicable to this submission
19	Antitrust Considerations	Not applicable to this submission
20	System Safeguards	Not applicable (internal controls and policies in place)
21	Financial Resources	Not applicable (capital requirements and quarterly reporting compliant)
22	Diversity of Boards of Directors	Not applicable (not public company, internal review and appointment of directors)
23	Securities and Exchange Commission	Not applicable

### Derivatives Clearing Organization (“DCO”) Core Principles

Core Principle Number	Core Principle Name	Addressed in or Not Applicable to Self-Certification
A	Compliance	Not applicable to this submission
B	Financial Resources	Not applicable (capital requirement and quarterly reporting compliant)
C	Participant and Product Eligibility	Addressed in I, II

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D	Risk Management	Not applicable to this submission
E	Settlement Procedures	Not applicable to this submission
F	Treatment of Funds	Addressed in II (Also Nadex Rulebook Chapter 8 Member Funds)
G	Default Rules and Procedures	Not applicable to this submission
H	Rule Enforcement	Not applicable (Nadex Rulebook, Chapter 9 Rule Enforcement, 10.2 – 10.4 Arbitration)
I	System Safeguards	Not applicable (internal controls and policies in place)
J	Reporting	Not applicable to this submission
K	Recordkeeping	Not applicable (Nadex maintains all required records for at least 5 years)
L	Public Information	Addressed in I, II
M	Information Sharing	Not applicable (member of Joint Audit Committee, Joint Compliance Committee, Intermarket Surveillance Group, and signatory to the International Information Sharing Memorandum of Understanding and Agreement)
N	Antitrust Considerations	Not applicable to this submission
O	Governance Fitness Standards	Not applicable (Nadex Rulebook, 2.2 Service Restrictions, 11.2 Service and Disciplinary History, internal review and appointment of directors)

P	Conflicts of Interest	Not applicable (Nadex Rulebook, 2.6 Voting, 2.9 Trading Limitations, 11.1 Non-Public Information, 11.3 Voting)
Q	Composition of Governing Boards	Not applicable (internal review and appointment of directors)
R	Legal Risk	Not applicable (Nadex Rulebook Chapter 6)

**EXHIBIT B**

<b>Rule</b>	<b>Asset</b>	<b>Duration/Close Time</b>	<b>Action</b>	<b>Effective Date</b>
3.1	Trading Members – Applications, Classifications, and Privileges	N/A	Remove \$250 required Membership deposit; amend acceptable means by which a deposit may be made; specify “US” Financial Institution for entity applicants	5/23/2022

## EXHIBIT C

### Addition of Rule 3.1

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

RULES 1.1 – 2.10 [UNCHANGED]

#### RULE 3.1 TRADING MEMBERS - APPLICATIONS, CLASSIFICATIONS, AND PRIVILEGES

(a) To be eligible to become a Trading Member:

(i) An applicant who is an individual, must:

1) provide Nadex with any information or documentation Nadex deems necessary in order to verify the applicant's identity, perform a criminal background check, or otherwise review information provided on an Application for Membership or by a third party provider<sup>2</sup>;

2) (A) have an account(s) ~~or accounts~~ in the Trading Member's name with a US Financial Institution that the Trading Member will use to fund its Nadex account at the Nadex settlement bank, and to receive funds from its Nadex account, or, (B) have a verified account(s) at a Financial Institution or Foreign Bank held in the Trading Member's name that will deposit funds to its Nadex account at the Nadex settlement bank by means of a registered money services business or other similarly authorized institution that has been vetted by Nadex and received pre-approved written authorization from Nadex that it is an acceptable means of deposit; or (C) if the Trading Member is a non-United States resident, have an account(s) ~~or accounts~~ as described in subsections (A) or (B) or an account(s) in the Trading Member's name with either a US Financial Institution or a Foreign Bank capable of transacting with Nadex's settlement bank either directly, through a Correspondent Account, or other acceptable intermediary that the Trading Member will use to fund its Nadex account at the Nadex settlement bank, and to receive funds from its Nadex account via one of the acceptable methods as stated on the Nadex website<sup>3</sup>; and

3) certify that

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<sup>2</sup> Required documentation may vary depending on the applicant's residential location. Specific residential locations from which Nadex may accept applications for Membership will be identified on the Nadex Membership application.

<sup>3</sup> All funds deposited into the Trading Member's Nadex account at the Nadex settlement bank shall be in U.S. dollars. All withdrawal payments from the Trading Member's Nadex account will also be made in U.S. dollars.

(A) the applicant is old enough to enter into a legally enforceable contract and has reached the required age as stated on the Membership Agreement;

(B) the applicant has read, understands and agrees to comply with the Nadex Rules, Risk Disclosure Statement, Terms of Use, Privacy Policy, and Membership Agreement;

(C) the applicant agrees to be bound by these Rules; and

(D) the applicant will trade only for itself and will not trade as an intermediary for any other person or entity.

(ii) An applicant that is an Entity must

(1) be organized in the United States;

(2) provide Nadex with a valid Taxpayer Identification Number;

(3) provide Nadex with a valid legal entity identifier as described in Commission Regulation §45.6;

(4) have an account or accounts in the Entity Trading Member's name with a Financial Institution that the Entity Trading Member will use to fund its Nadex account at the Nadex settlement bank, and to receive funds from its Nadex account, via one of the acceptable methods as stated on the Nadex website; and

(5) designate Authorized Trader(s) to trade its account and agree that such Authorized Trader(s) will trade only for it and will not trade for him/herself or as an intermediary for any other entity or person;

(6) designate at least one officer who is responsible for supervising all activities of its employees relating to transactions effected on Nadex or subject to Nadex Rules and provide any information Nadex may request regarding such officer(s);

(7) agree to be bound by these Rules; and

(8) certify that

(A) the applicant is validly organized, in good standing, in the United States;

(B) the applicant is authorized by its governing body and, if relevant, documents of organization, to trade commodities, swaps, futures and options contracts, and

(C) the applicant has read, understands and agrees to comply with the Nadex Rules, Risk Disclosure Statement, Terms of Use, Privacy Policy, and Membership Agreement.

(b) In order to become a Trading Member, an applicant who is an individual must complete and submit the Nadex on-line membership application, provide Nadex with any other information Nadex may request, and fund its Nadex account by making a deposit of funds belonging to the individual applicant from the individual applicant's account at a US Financial Institution, or as otherwise provided for in subsection (a)(i)(2) of this Rule, transferring to the appropriate segregated Cleared Swap Proprietary Account at Nadex's settlement bank, an initial deposit of no less than \$250 in funds from its account at a Financial Institution. ~~Nadex may return any account balance and terminate any account upon the discovery that the Membership Application was completed by anyone other than the named individual identified on the Membership Application.~~ An applicant who is an Entity must complete an Account Certification, Membership Agreement, and W-9, which collectively shall constitute the membership application, provide Nadex with any other information Nadex may request, and fund its Nadex account by making a deposit of funds belonging to the entity applicant from the entity applicant's account at a Financial Institution transferring to the appropriate segregated Cleared Swap Proprietary Account at Nadex's settlement bank, an initial deposit of no less than \$250 in funds from its account at a Financial Institution. ~~All funds deposited by Trading Members shall constitute "Member Property" in accordance with CFTC Regulations.~~

(c) Submission of a membership application to Nadex constitutes the applicant's agreement to be bound by these Rules and other policies of Nadex.

(d) If an application is approved by Nadex and the Nadex settlement bank confirms to Nadex that the applicant has made a successful initial deposit in accordance with paragraph (b) deposited with it the funds required in paragraph (b) of this Rule, the applicant will be a Trading Member of Nadex and will have the following privileges, which Nadex may revoke, amend, or expand in accordance with, or by amending, these Rules:

(i) to maintain a Nadex account;

(ii) to buy Contracts on the Market using the funds in its Nadex account;

(iii) to sell Contracts on the Market using the funds in its Nadex account;

(iv) to view "real-time" the same best bids to buy and offers to sell the Contracts traded on the Market as are available to all other Members;

(v) to view the current trading volume and open interest for the Contracts traded on the Market; and

(vi) to view all non-secure parts of the Nadex website, including these Rules, and descriptions of Contracts traded on the Market as well as all secure parts of the Nadex website outlined above in Rule 3.1(d)(i) – (vi).

(e) Nadex may in its sole discretion approve, deny, or condition any Member application as Nadex deems necessary or appropriate.

(f) A Trading Member that is an individual, may not maintain and/or trade more than one Nadex account. No Authorized Trader(s), nor any officer, director, member, manager, owner, or indirect

owner, of an Entity Trading Member may maintain a separate Nadex account and/or trade any Nadex account other than that Entity's account.

RULES 3.2 – 12.86 [UNCHANGED]

*End of Rulebook*

North American Derivatives Exchange, Inc., 200 West Jackson Blvd., Suite 1400, Chicago, IL 60606

US Toll-Free +1 (877) 77 NADEX [info@nadex.com](mailto:info@nadex.com) [www.nadex.com](http://www.nadex.com)

# EXHIBIT D

North American Derivatives Exchange, Inc., 200 West Jackson Blvd., Suite 1400, Chicago, IL 60606

US Toll-Free +1 (877) 77 NADEX [info@nadex.com](mailto:info@nadex.com) [www.nadex.com](http://www.nadex.com)