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November 10, 2023

Via CFTC Portal Submissions

Mr. Christopher Kirkpatrick
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: Nadex Updates Position Limits for BTC and ETH Touch Bracket Contracts - Submission Pursuant to Commission Regulation §40.6(a)

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (the "Act"), and §40.6(a) of the regulations promulgated by the Commodity Futures Trading Commission (the "Commission") under the Act, North American Derivatives Exchange, Inc. ("Nadex" or the "Exchange") d/b/a crypto.com | Derivatives North America, hereby submits to the Commission its intent to adjust the position limits for its Bitcoin (BTC) and Ether (ETH) Cryptocurrency Touch Bracket Variable Payout Contracts (the "Contracts") from 10 to 250 lots for Direct Trading Members, and from 10,000 to 250,000 (on a per strike basis) for market makers quoting markets in the Contracts.

On January 17, 2023, Nadex reduced its position limits on the Contracts from the initial position limit level of 100 lots to 10 lots for Direct Trading Members, and from 100,000 to 10,000 (on a per strike basis) for market makers, in order to account for the initial launch time period of the Contracts. Since the launch of the Contracts, over 680,000 BTC Touch Bracket Variable Payout Contracts have traded and over 105,000 ETH Touch Bracket Variable Payout Contracts have traded. Therefore, Nadex has determined that increasing the position limits coincides with the aforementioned usage of the Contracts by Direct Trading Members, as well as, the ability of market makers to overall capital usage and exposure of the market makers. The increase in position limits will not impact the Exchange's compliance with the Core Principles, as noted below, as discussed in the CFTC Regulation 40.2(a) Self-Certification of Product Filings for the Contracts dated October 28, 2022.[1] Therefore, Nadex is increasing the position limits for following:

- Rule 12.24 Bitcoin Cryptocurrency "Touch Bracket" Variable Payout Contracts
- Rule 12.25 Ether Cryptocurrency "Touch Bracket" Variable Payout Contracts

[1] *See* Self-Certification of Product: Nadex Adds Bitcoin and Ether Cryptocurrency "Touch Bracket" Variable Payout Contracts – Submission Pursuant to Commission Regulation§40.2(a) dated October, 28, 2022 (the "Filing"), which is incorporated by reference and is available at: https://www.nadex.com/notices/nadex-self-certifies-cryptocurrency-products-oct28/. Terms not defined herein shall have the meaning in the Filing or the Exchange Rules.

See Appendix A for an excerpt of the Rulebook depicting the position limits for each of the above-listed contracts.

Analysis of Nadex Rules 12.24 and 12.25 - Compliance With Core Principles

DCM Core Principles

Nadex has identified the following Designated Contract Market ("DCM") Core Principle as potentially being impacted by the position limits discussed herein: Core Principle 2 (Compliance with Rules); Core Principle 3 (Contracts Not Readily Subject to Manipulation); Core Principle 4 (Prevention of Market Disruption); Core Principle 5 (Position Limits or Position Accountability); Core Principle 7 (Availability of General Information).

Core Principle 2 (Compliance with Rules)

Core Principle 2 requires the DCM to have the capacity to detect, investigate, and apply appropriate sanctions to any person that violates any rule of the contract market. The Exchange has a dedicated Compliance/Regulatory staff that monitors the markets, investigates potential rule violations, and imposes sanctions against individuals who have been determined to have violated the Rules. The Exchange monitors for position limits and has an automated trade surveillance system, Scila, which is capable of detecting potential trade practice violations, and also conducts real-time market monitoring of all trading activity in all Contracts, at all hours the Exchange is open. The Exchange is able to set the parameters by which the system detects potential issues. Chapter 9 of the Exchange Rulebook sets forth the Exchange's authority to investigate and sanction Members for activity that violates the Exchange Rules. The Exchange Rule 2.10 grants the Exchange jurisdiction over any Person initiating or executing a transaction on or subject to the Rules of the Exchange, either directly or through an intermediary, and any Person for whose benefit such transaction has been initiated or executed. The Exchange's jurisdiction continues notwithstanding the termination of the Person's Exchange Membership. The Exchange Rule 3.3 requires all Trading Members and Authorized Traders to comply with the Exchange Rules and to cooperate with the Exchange promptly and fully in any investigation, call for information, inquiry, audit, examination or proceeding. Such cooperation may involve a request for the Member's or Authorized Trader's activity in the relevant Underlying market.

The Exchange certifies that its surveillance program addresses the requirements of Core Principle 2.

Core Principle 3 (Contracts Not Readily Susceptible to Manipulation and Core Principle 4 Prevention of Market Disruption)

Core Principles 3 and 4 require the DCM to list only contracts that are not readily susceptible to manipulation and to prevent market disruption. The Exchange selected the Underlying cryptocurrency commodity markets upon which to base its Contracts in large part due to their active markets in terms of volume and liquidity, and their popularity among consumers, institutional investors, and other financial professionals. Moreover, the Exchange Calculation Method significantly reduces the potential for manipulation of the Exchange Indicative Index by removing a percentage of the upper and lower Underlying bid/ask midpoint prices from the data set of the "ICE Cryptocurrency Data" feed ("ICE Crypto Data"'), distributed by ICE Data® Connectivity and Feeds, Inc. ("IDCF"), as well as data from Lukka Inc. (the Lukka Data Feed ("LDF")), leading up to Expiration of the Exchange Contracts, with the remaining prices averaged. The ICE Crypto Data and LDF consist of numerous data points from numerous trading venues, which can be customized by the Exchange. Accordingly, an individual trading the Contracts would not have knowledge of the specific trading venue(s) from which the final set of ICE Crypto Data and LDF will be used to calculate the Expiration Value, further preventing the potential for manipulation of the Contracts' settlement by trading in the Underlying markets.

The Contracts will have a position limit of 250 lots for non-market maker Members, which in combination with the composition of the ICE Crypto Data and LDF and the Exchange Calculation Method would make a manipulation attempt essentially cost-prohibitive. The profit potential of the fully collateralized Contracts is a fraction of the amount of capital that would have to be used in the Underlying spot markets to influence the price. In other words, the market participant would have a cost in the Underlying spot markets of more than 10 times the maximum return they could potentially see on the Nadex Contracts. This cost is also compounded by price changes in the Underlying spot markets.

Additionally, the Exchange notes that it is a common practice to set position limits so that a market participant holds no more than 25% of the deliverable supply of a commodity. The supply of Ethereum has no limit and the current deliverable supply of Ethereum is approximately 120.2 million Ether. 25% of the deliverable supply of Ether is approximately 30.1 million Ether. As for Bitcoin, The current supply of mined bitcoin is approximately 19.5 million bitcoins. However, approximately 30% of mined bitcoin is "burned", or permanently lost. Therefore, the deliverable supply of Bitcoin currently in circulation is approximately 13.6 million Bitcoins, and 25% of that deliverable supply is approximately 3.4 million Bitcoins. A position limit of 250 Contracts for Retail Members and 250,000 Contracts for Market Makers is reasonable, as it is well below 25% of the respective deliverable supply for BTC and ETH.

The proposed position limits are set well-under the 25% of deliverable supply and at a limit proportional to volume/limits on another DCM will serve to further reduce, if not eliminate, any already *de minimis* incentive to manipulate the settlement as mitigated by the applied index methodology.

The Exchange Calculation Method, which comprises the Exchange Indicative Index, is calculated on a second-by-second basis and works in conjunction with the previous components to further mitigate any risk of potential manipulation of the Underlying market for a positive result in the Underlying market. The Exchange Calculation Method for the cryptocurrency commodity is constructed to use bid/ask midpoint prices on the constituent exchanges. Using the Exchange's method, all bid/ask midpoint prices occurring in the Underlying market as reported in the ICE Cryptocurrency Data and LDF within a 60-second window. The highest 20% and lowest 20% of bid/ask midpoint prices are removed from the data set, and the remaining data set is averaged, resulting in the Indicative Index Value and likewise, Expiration Value. In the event 25 bid/ask midpoint prices are not available within any particular 60 second window, the window may be extended until 25 prices are collected (again outliers are removed and the remaining data set averaged). Analysis of historical market data indicates the event of this occurring would be rare. Under the Exchange Calculation Method, even if a participant was able to absorb all liquidity across multiple exchanges to create off-market bid/ask midpoint prices, those prices would undoubtedly fall into the high/low 20% of the calculation and be discarded from the Indicative Index and Expiration Value calculation, thereby negating any nefarious activity in which a participant may have engaged.

The Exchange has dedicated staff to survey the market and uses the Scila surveillance system to assist with market monitoring at all times the Contracts will be listed. Additionally, the Exchange will monitor the ICE Crypto Data and LDF feeds for anomalies and disproportionate moves in the prices making up the Expiration Value. The Exchange will be able to obtain information from the ICE Crypto Data and LDF to assist in the Exchange's market surveillance, such as, any relevant trade price, bid and ask prices, activity date and time, venue at which any relevant bid/ask occurred, size, volume, daily high and low, and a number of other data points. IDCF and LDF have agreed that upon the Exchange's request arising as the result of a regulatory investigation or related market data inquiry, it will share with the Exchange additional information, to the extent that it is reasonably practicable, and does not violate applicable laws, regulations and/or any of IDCF's, or LDF's contractual obligations.

The Exchange trading system has a cap-check feature that ensures a trader has sufficient funds in their account to fully collateralize their Order if executed before the Order is accepted by the Exchange. The Exchange also has the ability to block new Orders and/or cancel working Orders if necessary to prevent market disruption.

Therefore, the Exchange has determined that the Contracts are not readily susceptible to manipulation and the protections the Exchange has in place will minimize disruption in the Contract markets.

Core Principle 5 (Position Limits or Accountability)

Core Principle 5 requires the DCM set position limits or position accountability to reduce the potential threat of market manipulation or congestion. Nadex increased its position limits to align with the levels its Direct Trading Members will trade in the relevant contracts, and to prevent a reduction in overall liquidity in the event its Direct Trading Members should approach the current levels, forcing the market makers to reduce their own exposure by dropping out of the markets. As discussed in the analysis for Core Principles 2 and 3 above, the Exchange has set the position limit for Trading Members at 250 Contracts, thereby reducing the motivation for an individual to manipulate the Underlying market in order to affect the Exchange settlement, explained in detail above. Contracted Market Makers will not be subject to the 250 Contract position limit in order to provide sufficient liquidity to the market. Market Makers will instead be subject to an Alternative Position Limit of 1,000 times the 250 lot limit (thus, 250,000) for non-Market Maker Trading Members. Additionally, such Alternative Position Limits shall apply not to the entire Class of Touch Bracket Contracts, but to each Touch Bracket Contract in that Class (i.e., per strike).

A designated Market Maker must enter into a Market Maker Agreement with the Exchange. Pursuant to Section 1(a) of the Market Maker Agreement: “All of the terms and conditions contained in the Membership application process, as well as in the CDNA Rules, shall regulate all exchange trading activities of a Market Maker unless otherwise provided for in this Agreement.” Section 2(e) of the Market Maker Agreement states: “Market Maker is obligated to respond to any CDNA request for information regarding their Market Making activity on the exchange.” The Exchange also employs surveillance alerting to detect any violations or abuse of Position Limits which may lead to potential instances of market manipulation. Additionally, pursuant to Nadex Rule 4.4(d), a Market Maker taking advantage of the Alternative Position Limits must, within 1 business day following a request by the Exchange’s Compliance Department, provide the Exchange Compliance Department with a trade register detailing all trading activity in any account owned or controlled by the Market Maker in the relevant Underlying market during the 15 minutes immediately before and after any Expiration time identified by the Exchange’s Compliance Department in the request.

Therefore, the position limits will not negatively impact Nadex’s ability to comply with this Core Principle.

Core Principle 7 (Availability of General Information)

Core Principle 7 (Availability of General Information), implemented by Regulation 38.400, requires the DCM make available to the public accurate information concerning the terms and conditions of the contracts of the contract market. Nadex currently makes its Rulebook available to the public on its website and will continue to do so following the effective date of this submission. The Rulebook contains the contract specifications for all contracts, including each contract's position limits which will be updated and republished on the Nadex website. Accordingly, these position limits will not negatively affect Nadex's ability to comply with this Core Principle.

DCO Core Principles

Nadex has not identified any Derivatives Clearing Organization ("DCO") Core Principles as potentially being impacted by the position limits discussed herein.

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Nadex hereby certifies that the confirmations 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.

Nadex hereby certifies that notice of this confirmation was posted on its website at the time of this filing. In accordance with the 10-day review period set forth in Commission Regulation 40.6(a)(3), this confirmation will be effective as of November 28, 2023.

Should you have any questions regarding the above, please do not hesitate to contact me by telephone at (312) 884-0161 or by email at kevin.dan@nadex.com.

Sincerely,

/s/ Kevin J. Dan

Kevin J. Dan
Chief Compliance Officer
Chief Regulatory Officer

APPENDIX A

(Any deletions are stricken out while the amendments and/or additions are underlined.)

RULE 12.24 BITCOIN CRYPTOCURRENCY "TOUCH BRACKET" VARIABLE PAYOUT CONTRACTS

(a) SCOPE – These Rules shall apply to the Class of Contracts referred to as the Bitcoin Cryptocurrency ("Bitcoin") Touch Bracket Variable Payout Contracts, referred to as a 'Touch Bracket", issued by Nadex.

(b) UNDERLYING – The Underlying for this Class of Contracts is the spot bitcoin cryptocurrency commodity bid/ask midpoint prices as reported by Lukka, Inc. and ICE® Cryptocurrency Data aggregated by Blockstream® Corporation and distributed by ICE Data® Connectivity and Feeds, Inc., herein referred to as "U-BIT", quoted in US dollars.

(c) SOURCE AGENCY – The Source Agency is Nadex.

(d) TYPE – The Type of Contract is a Variable Payout Contract.

(e) PAYOUT CRITERION – The Payout Criterion for each Contract will be set by Nadex at the time the Variable Payout Contracts are initially issued. For the Bitcoin Touch Brackets, the Payout Criteria for the Contracts will be set as follows:

(i) WEEKLY BITCOIN TOUCH BRACKET VARIABLE PAYOUT CONTRACTS, Expiration is the earlier of (a) 4:15PM ET on the Last Trade Day of the contract listing, or (b) when the Bitcoin Index Value is equal to or greater than the Ceiling, or equal to or less than the Floor. Nadex shall list a set of four (4) Touch Bracket Variable Payout Contracts, each referred to as a 'Touch Bracket', that open at 11:00 PM ET on the first Trade Day of the week, with overlapping ranges, which conform to the Payout Criteria listed below.

CONTRACT 1: The Ceiling shall be X + 400; The Floor shall be X – 100.

CONTRACT 2: The Ceiling shall be X + 300; The Floor shall be X – 200.

CONTRACT 3: The Ceiling shall be X + 200; The Floor shall be X – 300.

CONTRACT 4: The Ceiling shall be X + 100; The Floor shall be X – 400.

DOLLAR MULTIPLIER – The Dollar Multiplier shall be 1.

In each case, "X" equals the last U-BIT value, as reported by the Source Agency, rounded to the nearest 1.

(ii) Upon the early Expiration of a Touch Bracket, Nadex may list a new Touch Bracket with a Ceiling of X + 400 (or 100) and a Floor of X – 100 (or 400) where X equals the Ceiling (or Floor) of the Touch Bracket that expired early. The newly listed Touch Bracket will have the same Last Trade Day as originally established for the expired Touch Bracket and the same Dollar Multiplier as the expired Touch Bracket.

(f) MINIMUM TICK –The Minimum Tick size for the Bitcoin Touch Bracket Variable Payout Contracts shall be 1.

(g) POSITION LIMIT –The Position Limit for the Bitcoin Touch Bracket Variable Payout Contracts shall be ~~10~~ 250 Contracts.

(h) MARKET MAKER ALTERNATIVE POSITION LIMIT – The Position Limit for the Bitcoin Touch Bracket Variable Payout Contracts for contracted Market Makers shall be ~~10,000~~ 250,000 Contracts per strike level.

(i) LAST TRADING DATE – The Last Trading Date in a Series is the same date as the Settlement Date.

(j) SETTLEMENT DATE – The Settlement Date of the Contract shall be the same date as the Expiration Date.

(k) EXPIRATION DATE – The Expiration Date of the Contract shall be the date on which the Bitcoin Touch Bracket Expiration Value is released by the Source Agency.

(l) SETTLEMENT VALUE – The Settlement Value is the amount paid to the holder of either a Short or Long Variable Payout Contract on Settlement Date. The Settlement Value of a Variable Payout Contract is determined as described in the definition for Long and Short Variable Payout Contracts.

(m) BITCOIN INDEX VALUE – The Source Agency shall calculate and produce a Bitcoin Index Value once each second throughout the life of the Bitcoin Touch Bracket Contracts. That is, each second the Source Agency will calculate a Bitcoin Index Value by taking by taking U-BIT midpoints between the bid/ask spread occurring in the sixty (60) seconds leading up to the Calculation Time, provided at least twenty-five (25) midpoints between the bid/ask spread are captured during the sixty (60) second period, removing the highest twenty (20) percent of U-BIT trade prices and the lowest twenty (20) percent of U-BIT midpoints between the bid/ask spread from the data set,

(n) EXPIRATION VALUE – The Expiration Value is the Bitcoin Index Value released by the Source Agency at Expiration on the Expiration Date.

(o) CONTINGENCIES – If no level is actually announced on the Expiration Date due to a delay, postponement or otherwise in such release announcement by the Source Agency, the Settlement Date will be delayed until the Underlying number is released for that Series.

RULE 12. 25 ETHER CRYPTOCURRENCY "TOUCH BRACKET" VARIABLE PAYOUT CONTRACTS

(a) SCOPE – These Rules shall apply to the Class of Contracts referred to as the Ether Cryptocurrency ("Ether") Touch Bracket Variable Payout Contracts, referred to as a 'Touch Bracket", issued by Nadex.

(b) UNDERLYING – The Underlying for this Class of Contracts is the spot Ether cryptocurrency commodity bid/ask midpoint prices reported by Lukka, Inc. and ICE® Cryptocurrency Data, aggregated by Blockstream® Corporation and distributed by ICE Data® Connectivity and Feeds, Inc., herein referred to as "U-ETH", quoted in US dollars.

(c) SOURCE AGENCY – The Source Agency is Nadex.

(d) TYPE – The Type of Contract is a Variable Payout Contract.

(e) PAYOUT CRITERION – The Payout Criterion for each Contract will be set by Nadex at the time the Variable Payout Contracts are initially issued. For the Ether Touch Brackets, the Payout Criteria for the Contracts will be set as follows:

(i) WEEKLY ETHER TOUCH BRACKET VARIABLE PAYOUT CONTRACTS, Expiration is the earlier of (a) 4:15PM ET on the Last Trade Day of the Contract listing, or (b) when the Ether Index Value is equal to or greater than the Ceiling, or equal to or less than the Floor. Nadex shall list a set of four (4) Touch Bracket Variable Payout Contracts, each referred to as a 'Touch Bracket', that open at 11:00 PM ET on the first Trade Day of the week, with overlapping ranges, which conform to the Payout Criteria listed below.

CONTRACT 1: The Ceiling shall be X + 80; The Floor shall be X - 20.

CONTRACT 2: The Ceiling shall be X + 60; The Floor shall be X – 40.

CONTRACT 3: The Ceiling shall be X + 40; The Floor shall be X - 60.

CONTRACT 4: The Ceiling shall be X + 20; The Floor shall be X – 80.

DOLLAR MULTIPLIER – The Dollar Multiplier shall be 2.50.

In each case, "X" equals the last U-ETH value, as reported by the Source Agency, rounded to the nearest 1.

(ii) Upon the early Expiration of a Touch Bracket, Nadex may list a new Touch Bracket with a Ceiling of X + 80 (or 20) and a Floor of X – 20 (or 80) where X equals the Ceiling (or Floor) of the Touch Bracket that expired early. The newly listed Touch Bracket will have the same Last Trade Day as originally established for the expired Touch Bracket and the same Dollar Multiplier as the expired Touch Bracket.

(f) MINIMUM TICK –The Minimum Tick size for the Ether Touch Bracket Variable Payout Contracts shall be 1.

(g) POSITION LIMIT –The Position Limit for the Ether Touch Bracket Variable Payout Contracts shall be ~~10~~ 250 Contracts.

(h) MARKET MAKER ALTERNATIVE POSITION LIMIT – The Position Limit for the Ether Touch Bracket Variable Payout Contracts for contracted Market Makers shall be ~~10,000~~ 250,000 Contracts per strike level

(i) LAST TRADING DATE – The Last Trading Date in a Series is the same date as the Settlement Date.

(j) SETTLEMENT DATE – The Settlement Date of the Contract shall be the same date as the Expiration Date.

(k) EXPIRATION DATE – The Expiration Date of the Contract shall be the date on which the Ether Touch Bracket Expiration Value is released by the Source Agency.

(l) SETTLEMENT VALUE – The Settlement Value is the amount paid to the holder of either a Short or Long Variable Payout Contract on Settlement Date. The Settlement Value of a Variable Payout Contract is determined as described in the definition for Long and Short Variable Payout Contracts.

(m) ETHER INDEX VALUE – The Source Agency shall calculate and produce a Ether Index Value once each second throughout the life of the Ether Touch Bracket Contracts. That is, each second the Source Agency will calculate a Ether Index Value by taking by taking all U-ETH midpoints between the bid/ask spread occurring in the sixty (60) seconds leading up to the Calculation Time, provided at least twenty-five (25) midpoints between the bid/ask spread are captured during the sixty (60) second period, removing the highest twenty (20) percent of U-ETH midpoints between the bid/ask spread and the lowest twenty (20) percent of U-ETH midpoints between the bid/ask spread from the data set[41], and using the remaining U-ETH midpoints between the bid/ask spread to calculate the Ether Index Value for that second. The calculation used is a simple average of the remaining U-ETH midpoints between the bid/ask spread in the data set, rounded to one decimal point past the precision of the Underlying market. In the event the time it takes to collect at least twenty-five (25) U-ETH midpoints between the bid/ask spread exceeds the sixty (60) second period, the Ether Index Value will be calculated by the Source Agency by taking the last twenty-five (25) U-ETH midpoints between the bid/ask spread just prior to the Calculation Time, removing the highest five (5) U-ETH midpoints between the bid/ask spread and the lowest five (5) U-ETH midpoints between the bid/ask spread, and using the remaining fifteen (15) U-ETH midpoints between the bid/ask spread to calculate the Ether Index Value. The calculation used is a simple average of all fifteen (15) U-ETH midpoints between the bid/ask spread, rounded to one decimal point past the precision of the Underlying market.

(n) EXPIRATION VALUE – The Expiration Value is the Ether Index Value released by the Source Agency at Expiration on the Expiration Date.

(o) CONTINGENCIES – If no level is actually announced on the Expiration Date due to a delay, postponement or otherwise in such release announcement by the Source Agency, the Settlement Date will be delayed until the Underlying number is released for that Series.