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**Via E-Mail and US Mail**

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

**Re: Amended November 19, 2004 - Rule Certification. NYMEX  
Submission 04.161 – Notification of New NYMEX Division Rule 2.75.**

Dear Ms. Jean Webb:

The New York Mercantile Exchange, Inc. (“NYMEX” or the “Exchange”) hereby notifies the Commodity Futures Trading Commission (“CFTC”) of new NYMEX Division Rule 2.75, Dublin Professional Membership Category.

The new Rule, effective November 22, 2004 outlines the terms and conditions of membership requirements for professional customers placing orders for execution on the NYMEX Europe trading floor. Pursuant to Section 5c(c) of the Commodity Exchange Act (“Act”) and CFTC Rule 40.6, the Exchange hereby certifies that the new amendments comply with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact the undersigned at 212-299-2940.

Very truly yours,

Nancy M. Minett  
Vice President  
Compliance Department

Attachments

cc: Thomas LaSala  
Brian Regan

(Bold and underlined indicate additions; strikethroughs indicate deletions.)

**Rule 2.75 NYMEX Europe ~~Dublin~~ Professional Membership Category**

(A) An applicant for this Membership Category must submit to the Exchange an application in the form prescribed by the Exchange and such other documents as the Membership Committee shall deem necessary or appropriate or shall otherwise require. Until further notice from the Exchange, there shall be no application fee for this Professional Membership application.

(B) Eligibility. This ~~Dublin~~ Professional Membership Category shall have adequate business and financial standing as determined by the Membership Committee in its sole discretion and be available only to:

- (1) Commercial/Trade Participants that are not an individual or group of individuals, that satisfies at least one of the following criteria:
  - (a) Has active commercial interest in the exploration, exploitation, distribution, shipping, refining, sale, trading or consumption of physical products underlying the Contracts traded on the exchange, or products whose price might reasonably be considered as related to the price of such underlying; or
  - (b) Is an Eligible Commercial Entity as defined in the US Commodity Exchange Act, section 1a(11); or
  - (c) Is a parent or subsidiary, or fellow subsidiary (i.e., has a company or partnership common parent) of a company or partnership which satisfies one of the two previous criteria; or
  - (d) Is a Market Counterparty under FSA rules; *or*
- (2) Institutional Participants that are not an individual or group of individuals, that satisfies at least one of the following criteria:
  - (a) Regulated financial institution in Canada, the European Union or Switzerland (bank, broker, fund manager/operator, etc); or
  - (b) Is an Eligible Contract Participant as defined in the US Commodity Exchange Act, section 1a(12); or
  - (c) Is a parent or subsidiary, or fellow subsidiary of a company or partnership which satisfies one of the two previous criteria; or
  - (d) Is a Market Counterparty under FSA rules.

(C) Application Process.

- (1) An applicant for ~~Dublin~~ Professional Membership must:
  - (a) Be sponsored by an existing Member of NYMEX **or a NYMEX Europe Permittee**;

- (b) Submit a completed NYMEX prescribed application form, signed by an authorized director or officer of the company and countersigned by a sponsoring member, confirming that the sponsor has taken appropriate steps to verify facts stated in the application.
- (2) NYMEX has absolute discretion whether to admit or deny membership and reserves the right to require the sponsoring Member to provide evidence of:
  - (a) the applicant's satisfaction of the admission criteria (or, after admission, the member's continuing satisfaction of the membership criteria);
  - (b) other facts stated in the application;
  - (c) the applicant's identity; and/or
  - (d) the sponsoring member's processes for compliance with NYMEX's requirements for applications, membership and sponsorship of applications/members.

(D) Dublin Professional Membership Privileges. A ~~Dublin~~ Dublin Professional Member's trading privileges are restricted to the placement of orders, solely for its own accounts, for all contracts listed by NYMEX for trading on the Exchange's ~~Dublin~~ Dublin Trading Floor. Such orders must be placed for execution with a Member or a NYMEX Europe Permittee. A Dublin Professional Member may not maintain any presence on the Exchange's Dublin Trading Floor.

(E) Restrictions. Except for the privileges specifically conferred by this Rule, this Membership Category shall not entitle a ~~Dublin~~ Dublin Professional Member, that is not otherwise a Member, to any of the rights and privileges of a Member, including without limitation, the following:

- (1) Voting;
- (2) Conferring membership privileges on a firm;
- (3) Participating in any Member benefits program;
- (4) Participating in the distribution of any assets of the Exchange;
- (5) Serving on the COMEX Governor's Committee; and
- (6) Serving on the Exchange's Board of Directors

(F) Committee Service. A representative of a ~~Dublin~~ Dublin Professional Member may be elected or appointed to any Exchange committee as permitted by the Rules.

(G) Disciplinary Jurisdiction. A ~~Dublin~~ Dublin Professional Member and its respective employees and agents shall be subject to the disciplinary jurisdiction of the Exchange in the same manner as a Member, or a Member's agents or employees, as applicable. In addition, each ~~Dublin~~ Dublin Professional Member must agree as a condition of participation to the following:

- (1) to be bound by the Commodity Exchange Act and the CFTC's Regulations, as applicable;
- (2) to provide access to the CFTC to all relevant books and records; and
- (3) to consent to personal jurisdiction in the United States.

(H) Arbitration. A ~~Dublin~~ Professional Member and its respective agents and employees shall possess all of the rights of a Member set forth in the Arbitration Rules, and a ~~Dublin~~ Professional Member and its respective agents and employees shall be subject to all of the obligations of a Member, and its agents and employees, as applicable, as set forth in said Arbitration Rules.

(I) Duration and Amendment of Terms. A ~~Dublin~~ Professional Membership shall be issued for an initial period of twelve (12) months duration. At or prior to such time, the Board may review this Membership Category and may determine in its sole discretion to extend the duration of ~~Dublin~~ Professional Memberships that have been or shall be approved and may further determine in its sole discretion to amend the membership criteria and conditions and requirements as it deems appropriate during the membership term.

(J) Transferability. Until further notice from the Exchange a ~~Dublin~~ Professional Membership may only be obtained directly from the Exchange and shall not be transferable or otherwise assignable.