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Via E-Mail and US Mail

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

**Re: Rule Certification. NYMEX Submission 04.166 – Notification of
Amendments to NYMEX Division Rules 6.40 and 6.41.**

Dear Ms. Jean Webb:

The New York Mercantile Exchange, Inc. (“NYMEX” or the “Exchange”) hereby notifies the Commodity Futures Trading Commission (“CFTC”) of amendments to NYMEX Rules 6.40, Simultaneous Buy and Sell Orders on the Exchange Trading Floor, and 6.41, Trading Standards for Floor Brokers.

The amendments, effective Friday, December 3, 2004, permit a floor member or NYMEX European Permittee having an order from another person to take the opposite side of a NYMEX Brent futures transaction for an account in which he has a proprietary interest, provided such person has received the customer’s prior written consent, and the trade is executed as a crosstrade in accordance with applicable NYMEX rules. 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

Revisions to NYMEX Division Rules 6.40 and 6.41
(Boldface and underlining represents additions.)

NYMEX Rule 6.40 - Simultaneous Buy and Sell Orders on the Exchange Trading Floor

(A) A Trading Member on the Exchange Trading Floor who shall have in hand at the same time both buy and sell orders of different principals for the same commodity for future delivery in the same delivery month or for the same option (both puts or both calls, with the same underlying contract for future delivery, expiration date and strike price) may execute such orders for, and directly between, such principals at the market price when the conditions of this Rule §6.40 are met.

(B) Such orders shall be offered by the Trading Member openly and competitively by open outcry in the trading pit on the Exchange floor by bidding and offering the quantity to be purchased and sold at the same price at least two times, and neither such bid nor such offer are accepted.

(C) Such member executes such orders in the presence of an Exchange employee designated to observe such transactions or a member of the Floor Committee; by appropriate descriptive words or symbol, clearly identifies all such transactions on his trading card or other similar record, made at the time of execution, and thereon the exact time of execution; and, promptly presents said record to said Exchange employee or member of the Floor Committee for verification and initialing.

(D) The Exchange shall keep for at least five (5) years a record of each such transaction showing the date, price, quantity, kind of commodity, delivery month, by whom executed, and the exact time of execution; or in the case of options contracts, a record showing the date, premium, strike price, whether a put or call, quantity, kind of commodity, expiration month, by whom executed, and the exact time of execution.

(E) Neither the futures commission merchant receiving nor the member executing such orders has any interest therein, directly or indirectly, except as such executing futures commission merchant or Member **or as provided in Rule 6.41(F)**.

[Rule 6.40(F) is a component of the Trading at Settlement Pilot Program]

(F) (1) Except on the last trading day, no trade shall be permitted pursuant to this Rule 6.40 during the closing range of the first four (4) trading months of Crude Oil or Natural Gas futures. (2) Except on the last trading day, no trade shall be permitted pursuant to this Rule 6.40 during the closing range of all contract months of Heating Oil or Unleaded Gasoline futures.

6.41 Trading Standards for Floor Brokers

(A) No Trading Member shall purchase any commodity for future delivery, purchase any call option, or sell any put option for any commodity options contract, for his own account, or for any account in which he has an interest, while holding an order of another person for the purchase of any future, any call option, or sale of any put option, in the same commodity which is executable at the market price or at the price at which such transaction can be made for the Member's own account or the account in which he has an interest.

(B) No Trading Member shall sell any commodity for future delivery, sell any call option or purchase any put option for his own account, or for any account in which he has an interest, while holding an order of another person for the sale of any future, any call option, or purchase of any put

option, in the same commodity which is executable at the market price or at the price at which such transaction can be made for the Member's own account or the account in which he has an interest.

(C) No Trading Member shall execute any transaction or place an order in NYMEX ACCESS® for any account of another person for which buying or selling orders can be placed or originated or for which transactions can be executed by such member, without the prior specific consent of such other person (hereinafter referred as to "discretionary orders") regardless of whether the general authorization for such orders or transactions is pursuant to a written agreement, except that discretionary orders may be placed with another Member for execution.

Within the meaning of this subparagraph, an order which gives the Trading Member discretion only with respect to time and price shall not be deemed to be a discretionary order.

The restrictions set forth in this subparagraph shall not apply to discretionary orders for: (i) member of the Trading Member's immediate family, which is defined to mean a spouse, parent, parent of a spouse, brother, sister, child, or spouse of a child; (ii) a member of the Exchange; (iii) a proprietary account of the Trading Member as that term is defined in Reg. ??1.3(y); or (iv) a non-member account provided the Member does not trade for his personal account or any other customer account.

However, a Trading Member shall withhold on the Exchange Trading Floor any order belonging to members of his immediate family, other members, or proprietary accounts until after the execution of executable orders for the accounts of other persons.

(D) No Trading Member shall disclose at any time that he is holding an order of another person or shall divulge any order revealed to him by reason of his relationship to such other person, except to execute an order or at the request of an authorized representative of the Commodity Futures Trading Commission or the Exchange.

(E) No Floor Member on the Floor having an order from another person may take the opposite side of the transaction for himself, directly or indirectly, or for an account of: i) any firm, corporation or other entity of which he is a partner, officer, employee, or otherwise a member of a broker association; or ii) any partner, officer, employee or broker association member of an entity listed in subparagraph (i) of this Rule.

(F) **(1) NYMEX Brent Crude Oil Futures. The provisions of Section (E) above shall not be applicable to trading in NYMEX Brent futures, nor in options based thereon, by a floor member or NYMEX Europe Permit Holder, trading on the NYMEX Europe floor, with the customer's prior written consent, provided the floor member or NYMEX Europe Permit Holder has bid and offered in accordance with Rule 6.40.**

(2) Any member of a broker association who is registered in accordance with the provisions of Rule 6.43A may apply for an exemption from the prohibitions set forth in paragraph (E) this Rule on the grounds that the activity for which registration as a broker association has been required does not occur on a daily basis. Exemptions shall be determined on a case by case basis. If the exemption is granted, the Floor Member will only be prohibited from taking the opposite side of a transaction as proscribed in paragraph (E) during those trading sessions that he is engaging in the activity for which registration as a broker association has been required. Any request for an exemption from the prohibitions of this Rule shall be filed with the President or his designee on a form to be prescribed by the Exchange. A written determination shall then be issued in response to the request for exemption.

(G) No Floor Member on the Floor holding a customer order that was given to him by another floor broker, or having had actual disclosure of a customer order from another floor broker, may use the details of the customer order at any time to take unfair advantage in a transaction for himself, directly or indirectly, or for an account of: i) any firm, corporation or other entity of which he is a partner, officer, employee, or otherwise a member of a broker association; or ii) any partner, officer, employee or broker association member of an entity listed in subparagraph (i) of this Rule.

(H) No Floor Member shall withhold or withdraw from the market any order or part of an order for the convenience of another.