

December 14, 2004

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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: Rule Certification. NYMEX Submission 04.174 – Notification of Amendments to COMEX Division Rule 4.82.**

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 COMEX Rule 4.82, Submission of Trade Data.

The amendments, effective Monday, December 20, 2004, narrow the definition of Customer Type Indicator (“CTI”) 1 to only be applicable to individual floor members. Additionally, other minor non-substantive changes were incorporated. 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

(Boldface and underlined indicates additions; strikethroughs indicate deletions.)

**COMEX Rule 4.82 - Submission of Trade Data.**

(a) General Requirements. Floor Trading Members shall be responsible for reporting the following data for each trade executed on the Exchange:

- (1) all information recorded on a floor member's trading card pursuant to Rule 4.80(b) and order tickets pursuant to Rule 4.81(a) and (b);
- (2) an appropriate customer type indicator (CTI) and indicator code as described in section (b) below;
- (3) the clearing member and account in which the trade will clear; and
- (4) such other information as the Exchange may require to match and/or clear a trade.

(b) Customer Type Indicator Codes. Floor Trading Members shall be responsible for reporting to the Exchange on the ~~Paperless Transfer System (PTS)~~, **On-line Trade Entry System ("OLTE")** appropriate CTI and indicator codes for transactions executed on the Exchange Floor. Authorized Terminal Users shall be responsible for reporting to the Exchange and on NYMEX ACCESS®, appropriate CTI and indicator codes for transactions executed on NYMEX ACCESS®. Appropriate CTI and indicator codes shall include a combination from sections (1) and (2) below:

(1) CTI Codes:

(A) **When a** Floor Trading Members ~~and Authorized Terminal Users who executes~~ trades for their ~~his/her~~ personal account, **for an account he/she controls, or for an account which he/she has an ownership or financial interest, he/she** whether owned in whole or in part, or for an account which they control or have the right to initiate trades in, regardless of whether or not they have an ownership interest in the account, or whether they are an employee, partner, or a customer of a Clearing Member, shall designate the trades as CTI 1.

(B) When a Floor Trading Member or Authorized Terminal User executes trades for the trading account of a Member Firm or Clearing Member, he/she ~~must~~ **shall** designate the trades as CTI 2. However, if the executing Floor Trading Member ~~or Authorized Terminal User~~ has either an interest in or discretionary control over such Member Firm or Clearing Member trading account, the indicator codes of subdivision (1) shall apply.

(C) (i) When a Floor Trading Member executes trades for the personal account of another Floor Trading Member, or for an account that the Floor Trading Member knows is controlled by another Floor Trading Member, he/she shall

designate the trades as CTI 3.

(ii) When an Authorized Terminal User ~~enters orders for execution~~ **executes trades** on NYMEX ACCESS® for the **personal** account of a Floor Trading Member, or for an account that the Authorized Terminal User knows is controlled by a Floor Trading Member, he/**she shall must** designate such orders as CTI 3.

(D) When a Floor Trading Member or Authorized Terminal User executes trades for any account, other than those listed in Subdivisions (A), (B), (C), he/she shall designate the trades as CTI 4.

(2) **Indicator Codes.** All of the above CTI codes summarized in section (1) of this Rule must be used in combination with one of the following indicator designations:

- (A) C or Customer – if the account owner is not affiliated with the Clearing Member; or
- (B) H or House – an account affiliated with the Clearing Member, including parent and subsidiary corporations, or Principals or authorized employees, trading for their own account at the Clearing Member in which they have an ownership interest in or by whom they are employed.

It shall be a Major Offense for Floor Trading Members or Authorized Terminal Users to knowingly assign false indicator codes to trades executed on the Exchange Floor or on NYMEX ACCESS®.

(The remainder of the Rule is unchanged.)