

February 3, 2005

Via E-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 05.16 – Notification of Amendments to NYMEX Division Rules 8.55(A)(23) and (B)(10).

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 8.55(A)(23) and 8.55(B)(10), Classification of Offenses.

The amendments, effective Monday, February 7, 2005, include a Major and Minor Offense for a Member or Member Firm’s failure to supervise such Member or Member Firm’s employees adequately to prevent them from committing violations of Exchange rules. Included in these Rules is a provision for an affirmative defense if the violation were a first offense, the Member or Member Firm detected the violation, reported it to the Exchange and took remedial action. 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

NYMEX Rule 8.55(A)(23): Supervision.

(a) To fail to supervise any employee of a Member or Member Firm adequately to prevent the violation by such employee of any Exchange Rule that: (i) results in substantial detriment to the welfare and interests of the Exchange; (ii) results in harm to a customer or another Member or Member Firm; or (iii) otherwise constitutes a Major Offense.

(b) A showing that the violation of an Exchange Rule by an employee was a first offense of that kind and that the Member or Member Firm disclosed the violation to the Exchange and took immediate and appropriate remedial action on its own initiative upon discovering the violation shall be an affirmative defense to a charge of violating Rule 8.55(A)(X)(a).

NYMEX Rule 8.55(B)(10): Supervision.

(a) To fail to supervise any employee of a Member or Member Firm adequately to prevent violations of Exchange Rules by such employee.

(b) A showing that the violation of an Exchange Rule by an employee was a first offense of that kind and that the Member or Member Firm disclosed the violation to the Exchange and took immediate and appropriate remedial action on its own initiative upon discovering the violation shall be an affirmative defense to a charge of violating Rule 8.55(B)(X)(a).