

August 4, 2005

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OFC. OF THE SECRETARIAT

**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 05.136: Notification of Amendments to NYMEX Rules 4.01, Customer Margins, and 4.03, Unsecured Loans.**

Dear Ms. Jean Webb:

The New York Mercantile Exchange ("NYMEX" or the "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") of amendments to NYMEX Rules 4.01, Customer Margins, and 4.03, Unsecured Loans. The amendments will become effective Monday, August 8, 2005.

Rule 4.01 was amended to conform minor differences regarding the requirements, across both NYMEX and COMEX Divisions, for customers to post with their Clearing Members similar instruments when meeting margin requirements. General housekeeping amendments were made as well.

The amendments to Rule 4.03 eliminate the ability of Clearing Members to make unsecured loans to their customers for the purpose of meeting margin requirements on COMEX products. Instead, the rule requires that such loans must be secured as is currently allowed for NYMEX products. Customers will be able to meet margin requirements on either Division by posting with their Clearing Members the following: U.S. Dollars; Foreign Currency (freely convertible to Dollars); U.S. Treasuries (max. 10 year maturity with value at 95% of face); Equity Securities (NYSE, AMEX, NASDAQ; min. \$10 value/share); Letters of Credit; and Warehouse Receipts (Exchange product valued at 75%)

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the amendments comply with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact Arthur McCoy, Vice President, Financial Surveillance and Risk Management, at (212) 299-2928.

Very truly yours,

Nancy M. Minett  
Vice President  
Compliance Department

cc: Thomas LaSala  
Brian Regan

**(Bold italic underlining** indicates additions; **~~Bold strikethrough~~** indicates deletions.)

#### Rule 4.01, Customer's Margins

[Paragraphs (A) through (D) remain unchanged.]

(E)(1) A Member Firm may accept deposits from its customers in one or more of the following forms as margin to cover open NYMEX **and COMEX** Division positions:

(a) United States Currency; or any currency freely convertible to United States currency; provided that if foreign currency is deposited, its value shall be calculated so that at the current rate of exchange the U.S. dollar equivalent of the foreign currency satisfies the customer's margin obligation.

(b) Securities issued by the Department of the Treasury of the United States maturing within ten (10) years of the date of the deposit and guaranteed as to principal and interest by the United States Government. Such securities shall be valued at ninety five percent (95%) of par value.

(c) **Fully paid equity** securities which are listed for trading on the New York Stock Exchange, Inc., ~~or the American Stock Exchange, Inc., which are traded in the over-the-counter market approved for margin by the Board of Governors of the Federal Reserve Board or Nasdaq,~~ provided that such securities; (i) are free from liens and encumbrances; (ii) represent no more than 5% of the issued and outstanding shares of any one issuer; and (iii) **have a market value of at least \$10 per share. Such equity securities shall be** ~~are~~ valued at 75% of the market value, ~~thereof~~ **Clearing members may not accept as margin from their customers equity securities issued by said customer or those of the customer's affiliates.**

(d) ~~a~~ **Letters** of credit in favor of a clearing member carrying an account, or in the case of any letter or credit to be used on a pass-through basis with the Clearing House, a letter of credit in favor of the Exchange. All letters of credit shall be issued in such form as may be prescribed by the Exchange and by a depository which has been approved by the Exchange for issuance and confirmation of letters of credit drawn in favor of the Clearing Members or in favor of the Exchange, as applicable. **Clearing Members may not accept from their customers letters of credit issued by said customer, the customer's affiliates, the Clearing Member, or the Clearing Member's affiliates.**

(e) ~~d~~ **Deliverable** warehouse receipts for commodities traded on the Exchange provided that such receipts will be valued as margin at no more than 75% of the value of the commodity.

~~(f) The net liquidating value in a customer's account over the initial margin requirements for the positions carried for such account.~~

~~(2) A Member Firm may accept deposits from its customers in one or more of the following forms as margin to cover open COMEX Division positions:~~

~~(a) United States currency, checks payable in United States currency, or currency freely convertible to United States currency; provided that if foreign currency is deposited, its value shall be calculated so that at the current rate of exchange the U.S. dollar equivalent of the foreign currency satisfies the customer's margin obligations;~~

~~(b) the net liquidating value in a customer's account over the initial margin requirements for the~~

~~positions carried for such account;~~

~~(e) securities issued or guaranteed by the United States, provided that such securities shall be valued at the lower of the par or market value thereof;~~

~~(d) securities which are listed for trading on the New York Stock Exchange, Inc. or the American Stock Exchange, Inc., or which are traded in the over-the-counter market approved for margin by the Board of Governors of the Federal Reserve Board provided that such securities; (i) are free from liens and encumbrances; (ii) represent no more than 5% of the issued and outstanding shares of any one issuer; and (iii) are valued at 75% of the market value thereof;~~

~~(e) deliverable warehouse receipts for commodities for commodities traded on the Exchange provided that such receipts will be valued as margin at no more than 75% of the value of the commodity;~~

~~(f) physical commodities (but not forward contracts therefor) if the carrying member is in possession and control of negotiable documents covering such commodities, provided, however, that the value of such commodities shall be based upon the contract market price for the grade of such commodity or if the commodity is not of a grade deliverable on a contract market, then at the price for the grade of such commodity on the spot market;~~

~~(g) a letter of credit in favor of a clearing member carrying an account or in the case of any letter or credit to be used on a pass-through basis with the Clearing House a letter of credit in favor of the Exchange. All letters of credit shall be issued in such form as may be prescribed by the Exchange and by a depository which has been approved by the Exchange for issuance and confirmation of letters of credit drawn in favor of the Clearing Members or in favor of the Exchange, as applicable.~~

~~(3) (2) Calls issued by Member Firms for additional margin from customers may only be met by: deposits conforming to the requirements of Rule 4.01(E)(1) for open NYMEX Division positions, or conforming to the requirements of Rule 4.01(E)(2) for open COMEX Division positions, or, for open positions on either division of the Exchange, or favorable market movements which, when taken into consideration and combined with any other monies available, enable the customer's margin to equal or exceed the then prevailing initial margin requirement.~~

[Paragraphs (F) through (I) remain unchanged.]

### **Rule 4.03, Unsecured Loans**

Clearing Members shall not be permitted to make loans to any customers for the purpose of financing margins ~~on NYMEX Division contracts~~ unless such loans are secured, as such term is defined in Section 1.17 of the regulations of the Commodity Futures Trading Commission.