



New York
Mercantile Exchange

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OFFICE OF THE SECRETARIAT

September 9, 2005

VIA FACSIMILE TRANSMISSION

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 05.163: Implementation of Rule Amendments in Connection with Launch of NYMEX Affiliate in London

Dear Ms. Webb:

The New York Mercantile Exchange, Inc. ("NYMEX") is notifying the Commodity Futures Trading Commission ("CFTC") of a self-certification filing involving various rule changes to certain settlement rules in NYMEX Chapter 6 and to the clearing rules contained in NYMEX Chapter 9. In a prior filing for which NYMEX recently received regulatory approval, the Exchange set forth a proposed procedure to be utilized in connection with the close-out of existing open positions in NYMEX's Brent Crude Oil and Northwest Gasoil futures contracts following NYMEX's delisting from trading of those contracts. NYMEX is delisting both contracts for trading on NYMEX following the close of today's regular open outcry trading session in Dublin, Ireland. In addition, today will be the last day of operation of NYMEX's branch trading floor in Dublin.

Commencing on September 12, 2005, NYMEX's London affiliate, NYMEX Europe Limited (NEL), will be listing these two futures contracts for trading as its initial product slate in connection with the official launch on that day of this new market. As a note, NEL had previously indicated that it might also be listing a Brent options contract as part of its initial product slate. More recently, though, NEL has determined to defer briefly the listing for trading of this option contract. Accordingly, at such time that NEL determines to list for trading this Brent option contract, NYMEX will contact CFTC clearing staff and consult with them in connection with the processes for listing by NYMEX of such product for clearing purposes and any such listing will be undertaken consistent with the conditions included in a recent CFTC order to NYMEX in connection with Section 4d of the Commodity Exchange Act.

NYMEX will continue to list both of the two futures contracts noted above for clearing in its capacity as a registered derivatives clearing organization. Thus, the existing position limit, position accountability and large trader reporting rules will remain unchanged.

Finally, in a subsequent filing to be submitted in the near future, NYMEX will submit various rule amendments deleting certain rules now in place that pertain

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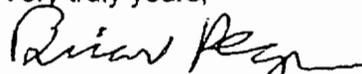
The New York Mercantile Exchange, Inc., is composed of two divisions. The NYMEX Division offers trading in crude oil, heating oil, unleaded gasoline, natural gas, electricity, coal, propane, platinum, and palladium. The COMEX Division offers trading in gold, silver, copper, and aluminum.

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specifically to the Dublin facility as those rules no longer will be operative with the closing of the Dublin branch facility.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act"), CFTC Rule 40.6, the Exchange hereby certifies that these rule changes comply with the Act, including regulations under the Act. These rule changes will become effective on September 12, 2005. Should you have any questions concerning the above, please contact the undersigned at (212) 299-2207.

Very truly yours,



Brian Regan
Vice President & Counsel

AMENDED VERSION OF NYMEX, INC. RULEBOOK CHAPTER 9 CLEARING RULES"

Note: Important Note

As of May 16, 2003, this chapter governs the processing and clearing of COMEX Division transactions as well as NYMEX Division transactions. In addition, as of May 16, 2003, all bylaws and rules of the COMEX Clearing Association are no longer in force or effect.

Furthermore, as of September 12, 2005, this chapter also governs the processing and clearing of NYMEX Europe Limited transactions.

9.00 Nymex Europe

(A) For purposes of these Chapter 9 rules and except as otherwise noted within a particular rule, references to requirements, conditions or procedures applicable to NYMEX or the NYMEX Division shall be read to include NYMEX Europe Limited within such NYMEX or NYMEX Division requirements, conditions or procedures.

(B) The Exchange, in relation to providing clearing services to NYMEX Europe Limited for transactions on that exchange, will provide reports to NYMEX Europe Limited as necessary and will provide such other information to NYMEX Europe Limited as may be required for its business and regulatory operations.

(C) In connection with providing clearing services for trading activity on NYMEX Europe Limited, a Clearing Member shall be by this Rule 9.00 bound by all applicable rules of NYMEX Europe Limited ("NYMEX Europe Rules") from time to time:

(1) governing the formation and allocation of contracts in respect of products admitted to trading on NYMEX Europe Limited's market ("NYMEX Europe Contracts"), and

(2) to the extent only that they relate to Designated Non-Members (as defined in the NYMEX Europe Rules) and Clearing Members who are members of NYMEX Europe Limited, NYMEX Europe Limited's default rules and rules governing default procedures in respect of NYMEX Europe Contracts;

and acknowledges that it is accordingly subject to the NYMEX Europe Rules in entering into any such NYMEX Europe Contract.

9.00A Liability of Exchange

(A) A Clearing House shall be maintained and operated under the Bylaws and Rules of the Exchange, for the purpose of clearing all trading of members on, or subject to the Bylaws and Rules of, the Exchange.

(B) Wherever these Rules create a right in ~~favor~~ favor of the Clearing House, or impose a liability on the Clearing House, it shall be construed as the right or liability of the Exchange and shall be enforceable by or against the Exchange.

- (C) The Exchange, the Clearing House, and the Clearing House Committee assume no liability in any clearing transactions, so far as fraudulent warehouse receipts are concerned, or the failure of insolvency of banks, or depositories.
- (D) In connection with the clearing of certain over-the-counter transactions in Exchange-designated pari-mutuel auctions, the Exchange may determine to facilitate the clearing of such transactions by establishing only for operational purposes one or more Exchange ~~clearing member~~ Clearing Member numbers and/or processing accounts. Notwithstanding the establishment of any ~~clearing member~~ Clearing Member number or account, the Exchange shall not be subject to the duties, obligations and requirements imposed upon Clearing Members under Exchange bylaws and rules.

9.01 Direction of the Clearing House

The general direction of the Clearing House and its operation shall be under the jurisdiction of the Clearing House Committee, subject to the approval of the Board. The President of the Exchange shall be Manager of the Clearing House, subject to the direction of the Clearing House Committee.

9.02 Membership in the Clearing House

- (A) Any Member Firm may, with the approval of the Clearing House Committee and the Board, become a member of the Clearing House in the manner hereinafter set forth, provided:
- (1) that the applicant must have such business integrity and financial responsibility as to justify the Clearing House in assuming the risk involved in the clearing of the applicant's trades;
 - (2) that a bona fide office can be continuously maintained in the City of New York and a bank account maintained with a bank in the City of New York acceptable to the President. A Clearing Member not having an office in the City of New York may satisfy the condition respecting a bona fide business office in the City of New York by: A) by designating another Clearing Member or member of the Exchange having a bona fide business office in the City of New York to act for it in all matters requiring action by a Clearing Member under the Bylaws and Rules of the Exchange and to receive on its behalf all notices or other communication including legal process in connection with Clearing House and/or Exchange transactions, such designation to be in form satisfactory to the Clearing House Committee; or B) presenting a plan for a "remote clearing solution" to the Clearing House Committee and having such plan approved by the Clearing House Committee. The Clearing House Committee may adopt rules, subject to the approval of the Board, respecting the nature of the office to be maintained in New York by a Clearing Member as well as the conditions to be complied with by a Clearing Member not having an office in the City of New York.

The Board, upon receipt of any application and report from the Clearing House Committee, shall either approve or disapprove the applicant and, if approved, the applicant shall be admitted to membership in the Clearing House. If disapproved the applicant shall not be permitted to file another application for a period of one year from the date of notice of disapproval.

- (B) The application shall be accompanied by a written document guaranteeing to the Clearing House the assumption of responsibility for any and all futures trades made in the name of the applicant or his qualified floor traders and accepted by the Clearing House. Any qualified member or members so approved can be guaranteed by only one Clearing Member but may act as a floor broker for other Clearing Members.
- (C) Said guaranteeing document, in the case of a partnership or corporation, shall be signed by the Exchange member of the partnership or corporation.
- (D) In the case of a corporation, the guaranteeing document shall be accompanied by a copy of the resolution of the Board of the corporation authorizing the guarantee required by this Rule duly certified by the Secretary or the principal officer of the corporation.
- (E) Any lawfully formed and conducted cooperative association of producers, within the meaning of the Commodity Exchange Act, which is engaged in any cash commodity business, having adequate financial responsibility may become a member of the Clearing House on the same terms and conditions as a corporation.
- (F) Applications for membership in the Clearing House shall be accompanied by the applicant's balance sheet prepared and certified to by a certified public accountant and sworn to as to the substantial accuracy by the applicant whose signature shall be acknowledged. The balance sheet of the applicant shall show a working capital (as defined in Rule §9.23) of not less than \$5,000,000.
- (G) Members of the Clearing House shall have the privilege of designating members of the Exchange as qualified floor traders in addition to their regular representative members. Such qualified floor traders must be guaranteed by the Clearing Member and subject to the approval of the Clearing House Committee.
- (H) All applicants prior to their election to membership in the Clearing House shall sign a statement that if approved, they will observe and be bound by the Clearing Rules of the Exchange and all amendments subsequently made thereto.

- (I) The President shall refer to the Clearing House Committee for its consideration the application and supporting documents after the President is satisfied that the financial requirements have been met.
- (J) Where a Clearing Member guarantees more than six qualified floor traders he shall have, in addition to the capital required for each Clearing Member, an additional \$50,000.00 of working capital for the guarantee of each qualified floor trader in excess of six.
- (K)
- (1) A corporation that is wholly owned by one member may be granted membership in the Clearing House provided that the provisions of this subsection have been met. The corporation must be a Member Firm upon which member privileges have been conferred by the owner of the Member Firm, or by the owner and a lessee leasing a membership from the owner of the corporation. The owner of the Member Firm must own both memberships. The lease agreement, if any, shall provide that the lease agreement shall terminate immediately upon the failure of the Member Firm to meet its obligations to the Exchange or its Members and that the membership shall be available to satisfy such obligations. The member firm must have and maintain \$250,000 working capital; and the obligations of the Member Firm to the Clearing House must be guaranteed by its owner. Such a Member Firm will be permitted to Clear trades executed by or for the account of the owner and to qualify only the owner. The Member Firm may not qualify, clear or guarantee the trades of a lessee who confers membership privileges upon the corporation. The Member firm must maintain at all times at the Clearing House original margin deposit of \$100,000 regardless of lesser applicable margin requirements. The Member Firm must file with the Exchange financial statements as follows: a certified financial statement within ninety (90) days of the close of its fiscal year and quarterly financial statements within forty five (45) days of the close of each fiscal quarter other than the last fiscal quarter.
- (2) In the event that a claim(s) against the lessee aggregating in excess of \$10,000 is (are) asserted, pursuant to any available means, the Member Firm shall, within two business days of the assertion of such claim, liquidate or transfer all positions cleared on the books of the Member Firm and cease doing business as a Member Firm; provided, however, that such action need not be taken if, within two business days of the assertion of a claim, the owner of the Member Firm deposits and maintains with the Clearing House \$300,000 original margin in addition to the margin requirements of this Section (K) to satisfy any and all claims that may be raised against the Member Firm or its owner and within thirty calendar days of such claim, the privileges of another membership owned by the owner of the Member Firm are conferred upon the Member Firm. On the effective date of the substituted conferred membership privileges, the \$300,000 additional original margin may be returned to the owner of the Member Firm. The original leased membership shall remain available to satisfy the claims, if valid, against the lessee.

- (3) In the event that a claim(s) against the Member Firm aggregating in excess of \$10,000 is (are) asserted, pursuant to By-law 857, Rule 2.51, or Rule 5.19 or, if by the Exchange pursuant to any available means, the lessee who has conferred the privileges of a leased membership on the Member Firm shall, within two business days, liquidate all positions held by or on his behalf and shall cease doing business as a Member of the Exchange; provided, however, that such action need not be taken if, within two business days:
- (a) the lessee demonstrates that he owns or leases more than one membership; or
 - (b) the lessee, lessor or Member Firm deposits with the Exchange a Certified check, payable to the Exchange, in an amount equal to the higher of the price at which a Membership was last sold or at which a membership was offered and acknowledges that such funds shall be available to satisfy any and all valid claims against the lessee.

Provided, further, that in the event that the lessee continues to do business pursuant to the provisions of (a) or (b) above, the leased seat shall be available to satisfy any valid claims against the Member Firm.

- (L) Each member who is a proprietor of a corporation or partnership which is a member of the Clearing House, pursuant to Section (K) of this Rule or otherwise, and as its principal business clears the trades of its proprietors in the house account shall guarantee to the Exchange, its members and member firms in a form and manner acceptable to the Exchange, the full and prompt payment of any and all obligations arising out of Exchange transactions made by or on behalf of such member. As used in this Section (L), the term proprietor shall mean an officer, director, or owner or controller of ten percent (10%) or more of the common or stock of a corporation or a general or limited partner of a partnership.

9.03 Guaranty Fund

(A) Contributions

Each Clearing Member shall deposit, and keep deposited, with the Exchange the amount prescribed in Section (B) as a contribution to the Guaranty Fund. The monies, securities, and instruments so deposited shall collectively constitute a fund known as the "Guaranty Fund" and shall be used as provided in the Rules to reimburse the Exchange for any loss sustained by the Exchange as a result of the failure of any Clearing Member to discharge his obligations in accordance with the Rules.

(B) Schedule of Contributions

The amount required to be deposited by each Clearing Member shall be calculated as follows:

- (i) Dual Division Members: The aggregate of 10% of the firm's modified capital, calculated independently for each Division, as defined in Rule 9.20(A)(1) and based on the most recent financial statement submitted to the Exchange, with a maximum contribution of \$4 million.
- (ii) Sole Division Members: 10% of the firm's modified capital, as defined in Rule 9.20(A)(1) and based on the most recent financial statement submitted to the Exchange, with a minimum contribution of \$100,000 and a maximum contribution of \$2 million.

The amount deposited shall be in the form of cash or 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 valued at ninety-five percent (95%) of par value.

(C) Custody

- (1) The Guaranty Fund shall be deposited in a special account in the name of the Exchange in such depositories in the City of New York as may be designated by the Board.
- (2) The Board shall be empowered to invest and reinvest all or part of the funds constituting the Guaranty Fund in direct obligations of the United States and/or to deposit said funds at interest. Such investments and deposits shall be at the risk of the Exchange. All net income and gains on such investments and interest on such deposits shall belong to the Exchange and shall be withdrawn from the Guaranty Fund and deposited with the general funds of the Exchange.

(D) Impairment

If the Guaranty Fund or any part thereof be lost or become unavailable from any cause other than the default of the depositing Clearing Member, the amount so lost or made unavailable shall be forthwith restored by transferring thereto all of the surplus of the Exchange that may be necessary, except such amount as the Board may, in its discretion, decide to retain as surplus for future operating expenses, and if the amount thus transferred from surplus be not sufficient to cover the entire loss, the balance of such loss shall be made up by an assessment in equal shares upon each of the Exchange members. Such assessment shall be paid to the Exchange immediately (but in no case to exceed one business day) after notice in writing thereof shall have been mailed to each of the Exchange members.

(E) Surrender of Guaranty Fund Deposit

After a Clearing Member ceases to be a Clearing Member of the Exchange and after all obligations of such member to the Exchange shall have been discharged in full, the amount of the Guaranty Fund that to which such Clearing Member is entitled shall be returned. Any expense, including counsel fees, incurred by the Exchange in connection with a Clearing Member's deposit or the return thereof, may be charged to the Clearing Member.

9.03A Use of the Guaranty Fund

- (A) The Exchange may at any time and from time to time assign, pledge, repledge or otherwise create a lien on or security interest in, the Guaranty Fund and/or the cash, securities and other property held in the Guaranty Fund to secure the repayment of funds borrowed by the Exchange (plus interest, fees and other amounts payable in connection therewith).
- (B) Any such borrowing shall be on terms and conditions deemed necessary or advisable by the Exchange (including the collateralization thereof) in its sole discretion, and may be in amounts greater, and extend for periods of time longer than the obligations, if any, of any Clearing Member to the Exchange for which such cash, securities or other property was pledged to or deposited with the Exchange.
- (C) Any funds so borrowed shall be used and applied by the Exchange solely for the purposes for which cash, securities and other property held in the Guaranty Fund are authorized to be used pursuant to Exchange Bylaws and the Rules; provided that the failure of the Exchange to use such funds in accordance with this Section (C) shall not impair any of the rights or remedies of any assignee, pledgee or holder of any such lien or security interest.
- (D) Cash, securities and other property held in the Guaranty Fund shall remain the property of the respective Clearing Members depositing such cash securities and other property, except that:
 - (1) such property shall be subject to the rights and powers of the Exchange with respect thereto as set forth in Exchange Bylaws, the Rules, and any agreements between any Clearing Member and the Exchange; and
 - (2) such property shall be subject to the rights and powers of any person to which the Guaranty Fund or any cash, securities or other property held therein shall have been assigned, pledged, repledged or otherwise subjected to a lien or security interest.

9.04 Clearing Procedure

(A) Submission of Daily Reports and Checks

For each contract for the future delivery of commodities, for each options contract, and for each other contract made and/or cleared on or subject to the rules of the Exchange, each Clearing Member shall, on the day when such transaction takes place, make and deliver to the Exchange a daily report of all such contracts in accordance with rules prescribed by the Board. The aforementioned daily report shall provide the Exchange with a complete record of the essential details of all transactions.

Allocation of trades to Clearing Members

- (1) Executing Floor Members shall, no later than one hour after the Exchange has entered initial trade information in relation to any trade into the Trade Management System (TMS), submit to the Exchange such allocation information as may be prescribed by the Board, including (but not limited to) customer account number, Clearing Member number and customer type indicator code.
- (2) Tardy submission of allocation information shall constitute grounds for a fine to be issued by designated Floor Department Staff or, where determined as appropriate by the Business Conduct Committee, as grounds for formal disciplinary action under Chapter 8 of the Rules.
- (3) Fines for the failure to submit allocation information shall be levied by the President in amounts as the Board, by resolution, may prescribe from time to time.
- (4) Each Floor Member, prior to the earliest opening of trading in a contract in which that Floor Member traded the previous trading day, and at regular intervals during the trading day, shall be responsible to review TMS for email messages from customers and Clearing Members as to the proper allocation of trades.
- (5) On the day of the expiration of an option contract, Clearing Members shall be required to have a representative available, during the times specified by the President or his designee, to review Clearing House Reports and to make any adjustments thereto.

(B) Submission of Position Change Statements

Each Clearing Member shall no later than such time as the Board may prescribe from time to time on each trading day submit a Position Change Statement to the Exchange setting out the information required by this form and any other informational requirement that the Board may establish from time to time.

(C) Separate Position Change Statements for House and Customer Accounts

Clearing Members having trades for their own account and for customers' accounts shall file two Position Change Statements, each properly designated and setting out the Clearing Member's own trades and the customers' trades.

(D) Exchange Not Liable for Inaccurate Position Change Statements

All clearing data reported to the Exchange by a Clearing Member following the completion of the operational procedures prescribed by the President shall be deemed accepted by the Clearing Member and the Clearing Member shall waive any claim

against the Exchange based upon inaccurate or erroneous data appearing on said Clearing House Reports.

(E) Margin

At times and under procedures established by the Board each Clearing Member shall deposit with the Exchange required variation margin, and original margin in such form as is acceptable to the Exchange. The Exchange in like manner shall pay each Clearing Member such amounts as are due such Clearing Member. The amount of margin payable to or by the Exchange as aforesaid shall be such amount as is necessary, after allowing for amounts theretofore paid on account, to adjust outstanding contracts with the Exchange together with all other contracts set forth in the daily report, to the last settlement prices and premiums posted by the Exchange.

(On each trading day shall be calculated on the basis of the open trades allocated to that Clearing Member at the end of the previous trading day as stated in its Position Change Statement as adjusted by any position transfers or trade transfers made before the relevant margin call.

(E) Payments for Original Margin

Each Clearing Member, at the time when payments are due to the Exchange as aforesaid, shall have deposited with the Exchange payment, in such form as is acceptable to the Exchange, for any original margin that may be required, as prescribed in these rules.

(C) Acceptance of Reports Final

All contracts reported to the Exchange as above provided shall be deemed accepted by it, unless the parties thereto are notified to the contrary by the Exchange on or before 9:45 a.m. on the Exchange business day following that on which the contracts are made, up to which time the Exchange has the right to refuse to accept any contract reported to it as aforesaid.

(D) Submission of Clearing Sheets

Within the time specified by the President or his designated representative, after the close of future call on each Exchange business day, each Clearing Member shall file with the Clearing House his Clearing Sheet of that day's business. The Clearing Sheet shall be in such form as the Clearing House shall prescribe and shall show in detail the following items:

- (1) open trades brought forward at the beginning of the day;
- (2) trades by such members on that day;
- (3) balanced or straddled trades;
- (4) number of trades offset;
- (5) balance open at end of day;
- (6) the amount due to or from such member on account of all adjusted transactions;

~~(7) the total amount of margins due on trades made on date of Clearing Sheet;~~

~~(8) the total amount of margins to be refunded on trades made on date of Clearing Sheet.~~

~~(9) the total amount of premiums due on options trades made on date of clearing sheet;~~

~~(10) the total amount of premiums to be refunded on options trades made on date of clearing sheet.~~

~~(E) Separate Sheets for House and Customer~~

~~Members having trades for their own account and for customers' accounts shall file two Clearing House Sheets, each sheet properly designated and complying with the members' own trades and the customers' trades.~~

~~(F) Reporting of Disputed Trades~~

~~Disputed transactions shall not appear upon the Clearing Sheet prior to the settlement of such disputes.~~

~~(G) Deposit for Debit Balance~~

~~If the Clearing Sheets of any Clearing Member show a debit balance such Clearing Member shall pay such balance in accordance with procedures and in such form as the Board shall specify.~~

~~(H) Refund for Credit Balance~~

~~If such Clearing Sheets show credit balances in favor of such Clearing Member after the Clearing House has had an opportunity to verify all balances on members' Clearing Sheets, the Exchange shall pay such balance in accordance with procedures and in such form as the Board shall specify.~~

~~(I) Separate Deposits and Refunds for House and Customer~~

~~Clearing Members shall give to the Clearing House separate settlement deposits for settlement of trades for: (1) members' own accounts, customers' segregated accounts, and (3) customers' non-regulated accounts; likewise the Clearing House shall issue separate refunds to members for: total credit balances on (1) the member's own trades, customers' segregated trades, and customers' non-regulated trades.~~

~~(J) Offset Memorandum~~

~~Clearing Members shall be required to submit to the Clearing House offset memoranda as demanded in the form prescribed by the Clearing House.~~

~~(K) Daily Settlement~~

(G) Daily Settlement

When a Clearing Member is long or short any amount of commodity futures and options contracts at the end of the day, as indicated by his Clearing Sheet, settlement shall be made with the Clearing House to the settlement price or premium for that day, and such Clearing Member shall pay to, or collect from, the Clearing House any debit or credit, as the case may be, represented by the difference between the price or premium at which the contract was bought or sold, and the settlement price or premium of the commodity for that day. After making such settlement with the Clearing House such Clearing Member shall be deemed long or short such commodity and option, as the case may be, at the settlement price of the day.

(L)

(H) Clearing Sheets

On each trading day ("T+1") following a trading day ("T"), the Exchange shall make available to each Clearing Member, a Clearing Sheet for each Clearing Member's House and Customer accounts in such form as the Board will from time to time determine, confirmation of the trade and position data contained in that Clearing Member's Position Change Statement submitted in respect of T, together with:

- (1) the amount due to or from such Clearing Member on account of all its adjusted trades;
- (2) the total amount of margin due to or from such Clearing Member in respect of trades made on T; and
- (3) the total amount of premiums due to or from such Clearing Member in respect of options entered into on T.

(I) Reporting of Disputed Trades

Disputed trades shall not appear on any Clearing Sheet prior to the settlement of such disputes.

(J) Deposit for Debit Balance

If any Clearing Sheet of a Clearing Member shows a debit balance such Clearing Member shall pay such balance to the Clearing House in accordance with procedures and in such form as the Board shall specify.

(K) Refund for Credit Balance

If any Clearing Sheet of a Clearing Member shows a credit balance, after the Clearing House has had an opportunity to verify balances on members' Clearing Sheets, the Clearing House will pay such balance in accordance with procedures and in such form as the Board shall specify.

(L) Separate Deposits and Refunds for House and Customer

Clearing Members shall pay to the Clearing House separate settlement deposits for settlement of trades for: (1) Clearing Members' own accounts, their customers' segregated accounts, and (3) customers' non-regulated accounts; likewise the Clearing House shall issue separate refunds to Clearing Members for total credit balances on (1) the member's own trades, customers' segregated trades, and customers' non-regulated trades.

(M) No change in records of any kind submitted to the Clearing House shall be made unless approved by the Exchange after written application thereof by the Clearing Member is made to the Exchange, stating the reason for such change.

(M) (1) When clearing operations are conducted by means of electronic data processing machines, amounts owed to the Clearing House must be deposited in accordance with procedures and in such form as the Board shall specify.

(2) Transfer information containing a customer account number, clearing member number and customer type indicator code, shall be submitted to the Exchange by the executing Floor Member within one hour after the initial transfer information is supplied by the Exchange. Disposition sheets shall be filed by 7:00 p.m. if done by paper submission, and by 8:30 p.m. if done by electronic submission.

(i) Tardy submission of transfer information, or disposition sheets, shall constitute grounds for a fine to be issued by designated Floor Department Staff or, where determined as appropriate by the Business Conduct Committee, as grounds for formal disciplinary action under Chapter 8 of the Rules.

(ii) Fines for the failure to submit transfer sheets or disposition information shall be levied by the President in amounts as the Board, by resolution, may prescribe from time to time.

(iii) As used in this subsection (M)(2), the term "failure to submit" means the failure to submit transfer information for any trade specified in this Rule 8.04 or a disposition sheet to the Clearing House on the day on which a trade is executed prior to the time at which the Clearing House begins final trade processing.

(3) The President may, at his discretion, announce times, other than those stated above, from which lateness will be computed.

(4) On the day of the expiration of an option contract, Clearing Members shall be required to have a representative available, during the times specified by the President or his designee, to review Clearing House Reports and to make any adjustments thereto. All clearing data reported to the Exchange by a Clearing Member following the completion of the operational procedures prescribed by the President shall be deemed accepted by the Clearing Member and the Clearing Member shall waive any claim against the Exchange based upon inaccurate or erroneous data appearing on said Clearing House Reports.

(N) Each Floor Member, prior to the earliest opening of trading in a contract in which the member traded the previous day, and at regular intervals during the trading day, shall be responsible to review his Broker Information Retrieval System ("BIRS") screen for Electronic, or "E", mail messages.

(O)

(N) Penalties imposed under this section shall not be subject to the provisions respecting procedures for disciplinary proceedings.

(PQ) Concurrent Futures Positions

- (1) Concurrent long and short futures positions in the current delivery month may not be offset by netting, transfer, expit, adjustment or any other bookkeeping procedures, but each side must be offset by normal floor transactions in accordance with Exchange Rules. Provided, however, that a clearing member ~~Clearing Member~~ will be exempt from this requirement if: (i) one side of the concurrent position is established the business day prior to the date that the offset memoranda are filed with the Clearing House; (ii) a clearing member ~~Clearing Member~~ filing such offset memoranda can satisfy the Exchange at its request that the delay in effecting the offset is attributed to an error in the filing of its clearing sheets; and (iii) ~~by 10:30 a.m. on the same date that a clearing member files such offset memoranda, the clearing member also files with the Clearing House an updated and accurate Long Open Interest Report.~~

~~(2) Position Change Statement.~~

- ~~(2) For the purposes of this Rule 9.04(P), the current delivery month for energy futures contracts commences on the opening of trading on the third business day prior to the termination of the respective futures contract, including the termination date. The current delivery month in platinum and palladium commences on the tenth (10th) business day prior to the first business day of the delivery month.~~

~~(Q) Metals Inventory Report~~

~~Each Clearing Member shall report to the Exchange in the form required by the Clearing House the quantity of deliverable metal warrants, and any changes thereto, owned by the Clearing Member, or held for customers. A report of a change in such information shall be made to the Exchange within one (1) business day of such change.~~

~~(R) Submission of Long Open Interest Report~~

~~Each Clearing Member shall submit to the Exchange by 10:30 a.m. on each Exchange business day, Futures and Options Long Open Interest Report(s) on the form prescribed by the Exchange.~~

9.04A NYMEX ClearPortSM ClearPort(sm) Clearing: Use of EFS and EFP Procedures for Trade Submission

- (A) Scope of this Rule. This rule governs transactions not executed on the Exchange ("Transactions") that are submitted to NYMEX via NYMEX ClearPortSM ClearPort(sm) Clearing for clearing in connection with a contract that is listed for clearing only or listed for trading and clearing on the Exchange. None of the provisions of this rule govern transactions submitted to clearing that have been executed in an over-the-counter pari-mutuel auction, which are instead governed by the terms of Rule 9.40C. In submitting a transaction to NYMEX ClearPort(sm) Clearing or in allowing a transaction to be submitted to the Exchange to NYMEX ClearPort(sm) Clearing, the two parties to the Transaction shall be deemed to have mutually agreed to initiate a process to substitute their transaction for a standardized futures contract listed for clearing only or listed for trading and clearing on the Exchange. For purposes of this rule, the two principals in the transaction shall be referenced as the "Parties to the Transaction."

- (B) Transactions: Compliance with Regulatory Exemptions and Exclusions. Each of the Parties to the Transaction shall be responsible for ensuring that the Transaction complies with CFTC regulatory requirements as applicable for such transaction, including as appropriate compliance with the terms of a statutory exemption or exclusion under the Commodity Exchange Act from other CFTC regulation relied upon by the Parties to the Transaction.
- (C) Substitution of NYMEX Futures for the Transaction. The process of substitution of a NYMEX futures contract for a Transaction shall not be deemed to have been completed unless and until the Parties to the Transaction have successfully concluded the submission of the Transaction to the Exchange as an exchange of futures for physicals (EFP) or as an exchange of futures for swaps (EFS), as applicable, pursuant to the respective provisions of NYMEX Rule 6.21 or Rule 6.21A and the provisions of this rule. For forward transactions involving deferred delivery of the physical commodity to be submitted to the Exchange, the Parties to the Transaction shall utilize the EFP procedure, and for swap transactions to be submitted to the Exchange, the Parties to the Transaction shall utilize the EFS procedure.
- (D) Trade Submission Procedures. All transactions submitted to the Exchange pursuant to this rule must be submitted in accordance with the procedures established by the Board of Directors for this purpose, as amended from time to time. The Parties to the Transaction and any OTC Broker authorized to submit executed transactions on their behalf to the Exchange and authorized for related activities shall be exclusively responsible, both individually and jointly, for accurately confirming the details of the Transaction to the Exchange. Once submitted, all such transactions, subject to the rules for trade adjustments set forth in Section (G) of this Rule, shall be deemed final. Neither the Exchange nor a Clearing Member carrying the account of either party will have any responsibility in the confirmation of trade terms for the EFP or EFS transaction.
- (E) Registration of Eligible Participants, Eligible Accounts and Authorized OTC Brokers. Each Clearing Member must register with the Exchange in the manner provided any customer authorized by the Clearing Member to submit transactions to the Exchange pursuant to this rule, and must also register with the Exchange the applicable account numbers for each such customer. For each such account, the Clearing Member carrying that account also must submit to the Exchange in the manner provided the name of any OTC Broker(s) who has registered with the Exchange for services provided by the Exchange, and who is authorized by the customer to act on its behalf in the submission of executed transactions to the Exchange and related activity.

For any such OTC Brokers authorized by the customer and submitted to the Exchange by the Clearing Member, such submission by the Clearing Member will not constitute an endorsement or ratification of the customer's authorization of the OTC Broker. Moreover, submission of OTC Brokers authorized by the customer will not mean that the Clearing Member is in privity with, has a relationship with and/or is otherwise standing behind any of the customer's authorized OTC Brokers, and the Clearing Member will have no responsibility for any such OTC Brokers selected by the customer and no duty or obligation to supervise the activities of any such OTC Brokers.

- (F) Establishment of Authorized Commodities and Total Risk Value. For each account number that has been registered with the Exchange pursuant to Section (E) of this rule, a Clearing Member also must input into the Exchange's Risk Allocation Value "E-RAV" system authorization indicating the specific commodities for which a Transaction may be submitted to the Exchange pursuant to this rule and the risk value(s) assigned by the Clearing Member for Transactions for that account.
- (G) Trade Deletion Procedures for Transactions Submitted via NYMEX Web Interface. Following submission of the trade details to the web interface by an OTC Broker (or by Exchange staff as mutually agreed by the Parties to the Transaction), an e-mail will be transmitted to the Parties to the Transaction notifying them that they have been listed as counterparties in a Transaction that has been submitted to the Exchange. Following such submission, a buyer or seller may not unilaterally reject the trade terms previously submitted to the Exchange. However, in order to correct an error resulting from the good faith actions of the OTC Broker or Exchange staff, as applicable, and upon mutual consent of the Parties to the Transaction, an OTC Broker or Exchange staff, as applicable, may void the transaction provided, however, that this void response is received by the Exchange within sixty (60) minutes of the time of the initial submission of the transaction to the Exchange.

Following the posting of the transaction on the Exchange, the Parties to the Transaction shall have no recourse or remedy under Exchange rules and procedures against any OTC Brokers and/or Clearing Members in connection with that transaction and instead would need to pursue such private remedies as would be otherwise available under existing law.

- (H) Entry of Clearing Orders. For a Transaction submitted to the Exchange pursuant to this rule, such transaction first will be routed to the Exchange's E-RAV Credit Check system. The time of entry of a Clearing Order into the Exchange's E-RAV system will be recorded by the system and will be used by the Exchange as the time that an E-RAV Credit Check was conducted pursuant to Section (I) below.
- (I) Use of E-RAV Credit Check System. The Exchange will conduct an E-RAV Credit Check for each Clearing Order. The E-RAV Credit Check will confirm whether the Clearing Member carrying that account has authorized that account for transactions submitted pursuant to this rule in the commodity involved in the Clearing Order, and confirm whether the entry of the Clearing Order into clearing would fall within the OTC risk value(s) established by the Clearing Member.

At all times until both Clearing Orders have successfully cleared the E-RAV Credit Check, a transaction submitted to the Exchange pursuant to this rule shall remain as an uncleared, bilateral OTC transaction wherein the Parties to the Transaction continue as

principals in that transaction.

In the event that either Clearing Order is rejected as a result of the ERAV Credit Check test, the EFS or EFP procedure would be deemed to have been terminated, and the Parties to the Transaction and their respective Clearing Members would be informed accordingly. Thereafter, any determination as to further action with respect to the OTC Transaction would be resolved by the Parties to the Transaction independently of the their Clearing Members and/or the Exchange.

- (J) **Trade Submission Deadlines.** Transactions that are submitted, confirmed and accepted for clearing, as further provided by Section (K) of this rule, prior to 2:30 p.m. Eastern Standard time on an Exchange business day will be included by the Exchange for clearing for that business day. The Exchange reserves the right to modify these business hours without notice at any time. The hours for electronic submission via the NYMEX website shall be from 7:00 p.m. Sunday evening through 2:30 p.m. Friday afternoon, except for the period from 2:30 p.m. to 3:15 p.m. (Monday-Thursday). The NYMEX facilitation desk will be available to assist users from 7:30 a.m. to 5:00 p.m. (Monday-Friday.)
- (K) **Clearance by Both Clearing Orders of Credit Check.** Upon clearance by both Clearing Orders of the E-RAV Credit Check, the transaction shall be deemed to have been accepted for clearing and will be routed automatically to the Exchange's clearing system. Consequently, the EFS or EFP procedure also shall be deemed to have been completed, and futures contracts thereafter will effectively be substituted for the Transaction that is thus extinguished between the Parties to the Transaction.

Notwithstanding the above, a Clearing Member also shall be responsible for accepting and clearing a position for a Clearing Order entered into the Exchange's clearing system for clearing following any non-operation of the Exchange's E-RAV Credit Check functionality for the applicable account carried by the Clearing Member.

9.04B Use of E-RAV Risk Filter for Trading on Specified Exchange Alternative Electronic Trading Systems

- (A) For the purposes of this rule, the term "Alternative Electronic Trading System" shall mean any electronic trading system other than NYMEX ACCESS® on which NYMEX Division or COMEX Division products are traded, but not including GLOBEX®. (A) No order for a contract traded on an Alternative Electronic Trading System ("AETS contract") may be accepted for entry into such system unless and until the Clearing Member has input electronically to the AETS system, or related Exchange systems as may be specified by the Exchange, the following required information:

- (1) the account number;

- (2) the contracts approved for trading for that account;
- (3) with respect to trading on an AETS, the Risk Allocation Value for that account using the Exchange's enterprise risk allocation value system ("E-RAV"); and
- (4) in addition to the Risk Allocation Value, setting net short and net long position limits for each contract permitted by the Clearing Member for that account.
- (B) The E-RAV risk filter does not apply to trading activity for the Regular Trading Hours session or trading activity for the NYMEX ACCESS® trading session. Trading on NYMEX ACCESS® is governed by a separate and distinct risk filter.
- (C) With respect to an AETS, the E-RAV dollar limit for a given customer account permitted by the Clearing Member for trading on such a system will not be used by the AETS as part of the risk filter for that system. Instead, the AETS will only utilize the net long and net short position limits set by the Clearing member Member for each contract permitted for that customer, and Clearing Members should set such position limits accordingly.
- (D) A Clearing Member may modify at any time by electronic input in the manner provided to the Exchange the information required by Section (A).
- (E) A Clearing Member agrees unconditionally to accept and to clear all trades executed for that account for which it has input information pursuant to Section (A), regardless of malfunction or non-operation of the Exchange's contracts order filter functionality, the Risk Allocation Value order filter functionality, and/or the position limit functionality.
- (F) Following input of the information required in Section (A) above for any account, an order for such account may be executed by or on behalf of the User for such system.
- (G) Notwithstanding Section (F) above, the Exchange, as provided by Rule 8.99A ("Summary Procedures for Denial of Access") shall have the right without limitation at any time to terminate a User's passwords and access to the AETS.

9.05 Margins

It shall be incumbent upon each Clearing Member that his trades and trades of his customers be margined up to the time of the acceptance of such trades by the Clearing House.

(A) Original Margin

Original Margin shall be paid on Exchange commodity transactions in such form as determined by the Board of Directors. Original margins may be changed at the discretion of the Board. Such margins shall be paid to the Exchange within the time limits prescribed by the President.

(B) Variation Margins

The President of the Exchange, at any time during the day, may call for variation margins to meet the variations in the market. Such margins shall be paid to the Exchange within the time limits prescribed by the President.

(C) Additional and Advance Margin

In the President's discretion if the protection of the Exchange so requires, the President may call for additional original margin from any one or more clearing members Clearing Members in such forms, and at such times as the President may specify. The President may lower the margins that were increased when the Exchange no longer requires the protection of increased margins.

(D) Straddle Margins

(1) Futures Straddles

A Clearing Member carrying an account which has both a long and a short futures position with the Clearing House in a particular commodity, in the same or different contracts but in no event for the same delivery month of the same contract, may treat such long and short positions to the extent they are equal in quantity as a futures straddle. ~~Each trade comprising a straddle shall be subject to separate brokerage and clearing charges. Initial margins deposited shall be the higher required for either trade or trades and when so deposited shall be sufficient for both trades but each trade shall be brought to the settling price, daily. When one trade of a straddle transaction is closed out all the remaining trade or trades that comprise the straddle must have the required original margin deposited with the Clearing House.~~

~~(2) Options Straddles~~

~~A Clearing Member carrying an account which has both (1) a short call option and a long call option; (2) a short put option and a long put option; (3) a long put option and a long call option; or (4) a short put option and a short call option, in a particular commodity, but in no event for the same series, may treat such positions to the extent they are equal in quantity as an options straddle. Each trade comprising a straddle shall be subject to separate brokerage and clearing charges. Initial margins deposited shall be the higher required for either trade or trades and when so deposited shall be sufficient for both trades but each trade shall be brought to the settling price, daily. When one trade of a straddle transaction is closed out all the remaining trade or trades that comprise the straddle must have the required original margin deposited with the Clearing House.~~

(2) Options Straddles

A Clearing Member carrying an account which has both (1) a short call option and a long call option; (2) a short put option and a long put option; (3) a long put option and a long call option; or (4) a short put option and a short call option, in a

particular commodity, but in no event for the same series, may treat such positions to the extent they are equal in quantity as an options straddle. Each trade comprising a straddle shall be subject to separate brokerage and clearing charges. Original margins deposited shall be the higher required for either trade or trades and when so deposited shall be sufficient for both trades but each trade shall be brought to the settling price, daily. When one trade of a straddle transaction is closed out all the remaining trade or trades that comprise the straddle must have the required original margin deposited with the Clearing House.

(E) Clearing Members may meet original margin calls by depositing:

- (1) Cash (U.S. Currency);
- (2) Original Margin Certificates issued by an original margin depository, in form acceptable to the Clearing House, for delivery to the order of the Clearing House, representing securities issued by the Department of Treasury of the United States of America maturing within ten (10) years from 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 the par value; or
- (3) Subject to a maximum limit of 50% of the Clearing Member's total original margin obligations, Irrevocable Letters of Credit payable to the order of the Clearing House including such Letters of Credit that are deposited with the Clearing Member in accordance with Exchange procedures by a customer, in form acceptable to the Clearing House, issued by or confirmed by an original margin depository and having an expiration date of not less than three (3) or more than eighteen (18) months from the date of issuance; provided, however, that such Letter of Credit may not be used to meet original margin obligations during the fifteen calendar days prior to the expiration date thereof (if the fifteenth day prior to the expiration of the Letter of Credit is not a business day, the period during which such Letter of Credit may not be used to meet original margin obligations shall begin on the business day immediately preceding that day); and, provided further, that on the business day preceding the fifteenth calendar day prior to the expiration of the Letter of Credit, the Clearing House shall issue a call for original margin to be deposited in a form and manner acceptable to the Clearing House for positions held open as of the close of business on that day and margined by the Letter of Credit. The Clearing House shall have the unqualified right to call on any Letter of Credit at any time prior to expiration.
- (4) Shares in a money market mutual fund that complies with CFTC Regulation §1.25 and that has been approved by the Board, subject to the following conditions:

- (ia) for purposes of original margin, such shares will be valued at 95% of market value; (ii) a Clearing Member's participation in any approved fund shall be limited to no more than 5% of that fund; and (iii) no more than 25% of the total assets of an approved money market mutual fund may be used to meet original margin obligations at the Exchange.
- (F) The Clearing House shall have the right, at all times, to prohibit or otherwise limit the use as original margin by any Clearing Member of letters of credit or of securities under this Rule.
- (G) The Clearing House shall retain the original margin deposited with respect to any futures contract against which a delivery notice has been issued until the business day after the delivery date or such date as designated by the Clearing House.
- (H) Customer Accounts with the Exchange
- (1) Except as provided in subsection (2) below, all customer funds deposited with the Exchange shall be held in accordance with the Commodity Exchange Act and Commission Regulation 1.20 in an account identified as Customer Segregated. Customer funds shall be segregated by the Exchange and treated as belonging to the customers of the clearing member Clearing Member. Pursuant to this Rule, ~~clearing members~~ Clearing Members registered as Futures Commission Merchants shall not be required to obtain a segregated acknowledgment letter from the Exchange.
- (2) Customer funds deposited with the Exchange for cleared transactions in over-the-counter pari-mutuel auctions may be deposited in either a member account or a customer non-regulated account. Neither account shall be treated as a customer segregated account.

9.06 Failure of Clearing Member to Deposit Margins

In the event of the failure of a member to deposit any margins as required, the President, with the approval of the Board, may close out all or any part of the trades in the best interest of the Exchange and the defaulting Clearing Member. Any loss resulting therefrom shall be the liability of the defaulting Clearing Member. Any Clearing Member whose trades are thus closed out shall be promptly notified thereof by the President.

9.07 Limit of Clearing House Losses

Losses to be borne by the Clearing House shall be limited to losses resulting from the substitution of the Clearing House under contracts between Clearing Members, or in the case of cleared transactions in over-the-counter pari-mutuel auctions, under

contracts between NYMEX and a participant in such an auction that are given up for clearing.

The Clearing House shall not be liable for any obligations of a non-Clearing Member, nor for any obligation of a Clearing Member to a non-Clearing Member, nor for any obligation of a Clearing Member to another member of the Clearing House who is acting for him as broker.

9.08 Clearing House Not Liable to Customer

The Clearing House shall under no circumstances become liable to make deliveries to or accept deliveries from a customer of its Clearing Members, or in any way become obligated to a customer by reason of any contract or, except as otherwise provided, to exercise any option or accept assignment of such exercise on behalf of a customer of its Clearing Member, made for the customer by a Clearing Member. Such customer must look to his Clearing Member or broker to make or accept all deliveries, to exercise or accept assignment of exercise, of any options contract for all settlements.

9.09 Clearing Fees

- (A) Charges for clearing trades shall be fixed by the Board upon the recommendation of the Clearing House Committee and shall be payable by Clearing Members as billed. All Clearing Fees shall be charged per contract bought, sold, delivered or accepted.
- (B) A minimum fee of \$200.00 per month shall be charged to Clearing Members.
- (C) Claims by Clearing Members for adjustments to clearing charges or fees shall be made to the Exchange within 90 days of the invoicing of such charges by the Exchange. The failure to claim adjustments within this period shall constitute a waiver of such claim by the Clearing Member; provided, however, that the Board of Directors, for good cause shown and following review by the Clearing House Committee, may authorize payment by the Exchange of a late claim for adjustment filed within 6 months of the invoicing of charges by the Exchange in excess of \$1,000. Any late claim for adjustment paid by the Exchange shall be subject to a 10% administrative fee that shall be deducted from such payment. No claim for adjustment will be considered that is filed later than 6 months after the invoicing of changes by the Exchange.

9.10 Trade Refused by Clearing House

When the President deems the financial condition of any Clearing Member as inadequate to carry any additional transactions he shall prohibit such Clearing Member from clearing any new transactions. Any such member may appeal from the decision of the President to the Board.

9.11 Transfer of Trades

Where a member makes ~~Floor Member enters into~~ a trade as a broker for another member of the Clearing House ~~Member~~, he shall file with the Clearing House immediately at the close of the call ~~within one hour~~ a complete description of the trade, giving the name of the principal for whom he was acting as broker and on whose Clearing Sheet the transaction is to be cleared; he shall be liable as principal upon such trade until it has been accepted by the Clearing House for the account of his principal.

9.11A Give-Up Trades - Trades Executed by Open Outcry

In the absence of a give-up agreement whose terms and conditions govern the responsibilities/obligations of executing brokers, customers and Clearing Members, the following rules shall define the respective responsibilities/obligations of those parties to an order. The "executing broker", as used in this rule, is the registered billing entity, Member Firm or Floor Broker to whom the order is transmitted for transactions on NYMEX and the Floor Broker to whom the order is transmitted for transactions on NYMEX Europe.

(A) Responsibilities/Obligations of Clearing Members

(1) Limits Placed by Clearing Member. A Clearing Member may, in its discretion, place trading limits on the trades it will accept for give-up for a customer's account from an executing broker, provided however, that the executing broker receives prior written or electronic notice from the Clearing Member of the trading limits on that account. Notice must be received by the executing broker in a timely manner. A copy of such notice shall be retained by the Clearing Member.

(2)- Trade Rejection. A Clearing Member may reject ("DK") a trade only if: (1) the trade exceeds the trading limits established under Section I(A) of this rule for that customer and it has been communicated to the executing broker as described in Subsection (A); or (2) the trade is an error for which the executing broker is responsible. If a Clearing Member has a basis for rejecting a trade, and chooses to do so in accordance with the provisions of Rule 2.21(B), it must notify the executing broker promptly.

(3)- Billing. A Clearing Member Billing. Except in connection with brokerage fees incurred for transactions executed on NYMEX Europe (where Floor Brokers generally will directly collect brokerage fees from their customers), A Clearing Member otherwise will pay all floor brokerage fees incurred for all transactions executed by the executing broker for the customer and subsequently accepted by the Clearing Member by means of the ATOM system. Floor brokerage fees will be agreed upon in advance among the Clearing Member, customer and the executing broker.

(B) Responsibilities/Obligations of Executing Brokers

(1) Customer Order Placement. An executing broker will be responsible for determining that all orders are placed or authorized by the customer. Once an order has been accepted, a broker or the broker's clerk must:

- (a) confirm the terms of the order with the customer;
- (b) accurately execute the order according to its terms;

- (c) confirm the execution of the order to the customer as soon as practicable; and
- (d) transmit such executed order to the Clearing Member as soon as practicable in accordance with Exchange Rules and procedures.

2.

(2) Use of Other Persons. Unless otherwise agreed in writing, the executing broker is allowed to use the services of another broker in connection with the broker's obligations under these rules. The executing broker remains responsible to the customer and Clearing Member under these rules.

3.

(3) Executing Broker Responsibility for Verifying Clearing Member Authorization. Prior to a broker accepting and executing an initial order for any new customer account, the executing broker must confirm with the Clearing Member by telephonic, electronic or written means, that:

- (a) the customer has a valid account with the Clearing Member;
- (b) the account number;
- (c) the brokerage rate;
- (d) the customer is authorized by the Clearing Member to place orders with the executing broker for that account.

The executing broker must retain a copy of the authorization or the specifics of the telephonic confirmation, which includes: opposite party, date, time, and any other relevant information. The falsification of such information shall be the basis for disciplinary action.

4.

(4) Rejection of Customer Order. Where an executing broker has confirmed Clearing Member authorization to execute orders on behalf of a customer in accordance with this Rule 9.11A, the broker may, in the broker's discretion, reject an order that the customer transmits to the broker for execution. The broker shall promptly notify the customer and the Clearing Member(s) of any such rejection.

9.12 Substitution

The Exchange may accept contracts offered to it by Clearing Members for clearance, and by such acceptance shall, in place of either party to a contract so accepted and

toward the other party thereto, assume the obligations imposed thereby and succeed to and become vested with all the rights and benefits accruing therefrom, assuming to the buyer the position of seller and to the seller the position of buyer, as the case may be. As between the Exchange and each of the parties to an accepted contract the terms and conditions thereof shall continue in full force and effect.

9.13 Bank Holidays

When the Exchange is open for business on a day banks are closed, because of a legal or bank holiday, the time limit for settlement of Clearing House accounts shall be extended to the next bank business day.

9.14 Omnibus Accounts

No Clearing Member may execute contracts for future delivery or options contracts on the Exchange for a carrying house which does not disclose the names of its customers or options customers (omnibus accounts) unless the carrying house agrees that it will, on request of the Clearing Member, disclose to the Clearing Member, the names, addresses, positions and transactions of its customers; provided, however, that the Clearing Member shall not call for such information unless requested to do so by the Board, a Committee of the Exchange or the President. A copy of such agreement shall be made available by the Clearing Member upon request of the Exchange.

9.15 Refund of Clearing Fees

Should the income of the Exchange derived from Clearing Members in any year be in excess of its expenses for such year, the Board may, in its sole discretion, return any or all of such excess income to Clearing Members in the proportion that the number of contracts cleared by each Clearing Member on which a clearance fee was charged by the Exchange during such year bears to the total number of such contracts cleared by the Exchange during such year. The decision of the Board with respect to the determination of excess income and the decision whether to return, retain or otherwise use such excess income shall be conclusive.

9.16 Transaction Fees

Clearing Members shall collect from non-member customers a transaction fee as established by the Exchange for each commodity contract bought or sold or otherwise cleared on or subject to the rules of the Exchange. Clearing Members also shall collect from non-member customers a transaction fee as established by the NYMEX Europe Limited for each commodity contract bought or sold on or subject to the rules of NYMEX Europe Limited and remit said fees to the Clearing House as billed.

9.17 Delivery Procedure

Commodities bought or sold on Exchange or NYMEX Europe Limited contracts shall be delivered and accepted in accordance with the provisions of this Chapter, supplemented by provisions of the rules of the Exchange or of NYMEX Europe Limited applicable to individual commodities. Any question affecting the handling or delivery or any commodity which is not specifically covered by the Bylaws and Rules may be referred to the Board for determination.

9.18 Delivery Through Clearing House

All deliveries or settlements in fulfillment of listed Exchange contracts shall be made through the Clearing House in accordance with Bylaws and Rules.

9.19 Final Day of Trading

(A)

(1) On the final day of trading in the delivery month of a contract that is listed for trading by open outcry on the trading floor of the Exchange or of NYMEX Europe Limited, it shall be the responsibility of each Clearing Member who is not in a position to fulfill his contractual obligation on any maturing contract by prescribed notice and tender, to have a liquidating order entered on the Exchange floor or on the NYMEX Europe Limited floor one hour before the time established for the beginning of the closing range for such delivery month. All such orders shall be market orders to be executed prior to the expiration of trading.

(2) On the final day of trading in the delivery month of a contract that is listed for trading solely on NYMEX ACCESS® or on an Alternative Electronic Trading System, it shall be the responsibility of each Clearing Member who is not in a position to fulfill its contractual obligation on any maturing contract by prescribed notice and tender, to have a liquidating order entered on NYMEX ACCESS® or an Alternative Electronic Trading System, as applicable. For the purposes of this rule, the term "Alternative Electronic Trading System" shall mean any electronic trading system other than NYMEX ACCESS® on which NYMEX Division or COMEX Division products are traded, but not including GLOBEX®.

9.19A Transfers to Correct Errors Occurring on the Last Day of Trading

(A) For purposes of this Rule 9.19A, a ~~clearing member~~ Clearing Member carrying open contracts in an expired delivery month for its own account or the account of any other person as the result of an error may, by consent of the account owners, transfer any or all of such contracts to any other account carried by such ~~clearing member~~ Clearing Member or to any other ~~clearing member~~ Clearing Member; provided, however, that;

(i) such transfer shall occur not later than the time prescribed for ~~clearing members~~ Clearing Members to file with the Exchange a Notice of Intention to Accept or Deliver for the specific commodity, by which time the ~~clearing member~~ Clearing Member(s) effecting the transfer, shall deliver to the Clearing House written notification of such transfer in the form and manner prescribed by the Exchange specifying the parties thereto and the prices at which such transfers were effected; and

(ii) the ~~clearing member~~ Clearing Member(s) must submit and retain records of all forms presented to the Clearing House for the processing of any error transfer trade.

(B) In the event that the error is discovered after the close of trading on the last day of trading in an expiring contract, but before the trade is assigned to a ~~clearing member~~ Clearing Member, a floor member on the Exchange or on NYMEX Europe Limited may transfer the position held in error to any account carried by any ~~clearing~~

member Clearing Member, provided that the floor member and the clearing member Clearing Member carrying the account accepting the positions submit to the Exchange and retain a copy of the forms required by the Exchange for the transfer of such position.

(excluding the defaulting clearing member Clearing Member and any insolvent clearing member Clearing Member) pay the Maximum Assessment.