

March 2, 2006

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MARCH 2 2006 PM 12:52
OFFICE OF THE SECRETARY

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 06.33 – Notification of
Amendments to Certain NYMEX Chapter 11 NYMEX ACCESS®
Rules.**

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 Division Rules 11.01, 11.02, 11.03, 11.04 and 11.08 pertaining to NYMEX ACCESS®.

Effective March 3, 2006, the amendments conform NYMEX ACCESS® Rules related to FIX Connectivity to those rules that were put into effect for NYMEX ClearPort® Trading. Further, the amendments to Rule 11.03 remove the requirement that the placement of orders into NYMEX ACCESS® be restricted to being placed by Members. 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 feel free to contact me at (212) 299-2897.

Very truly yours,

Thomas F. LaSala
Senior Vice President
Compliance and Risk Management

Attachments

cc: Brian Regan
Nancy Minett

Amendments to Certain NYMEX Chapter 11 NYMEX ACCESS® Rules

(Additions are in bold/underline; strikethrough indicates deletions.)

NYMEX Rule 11.01, Holders of Electronic Trading Privileges

(A) Each Class A Member and COMEX Division membership in the Exchange shall carry with it electronic trading privileges. For the purposes of these Rules, electronic trading privileges shall mean the right to apply for designation as an Electronic Trader. Such authority may be exercised by the owner of a Class A Member or COMEX Division membership or by an individual or Member Firm that leases such authority from the owner of the COMEX Division membership, subject to the provisions of Rule 11.20. For the purposes of this Rule, a Class A Member or COMEX Division membership held pursuant to an A-B-C Agreement shall be deemed to be owned by the Member Firm that is the party to such agreement. In addition, the Exchange in its discretion also may determine to extend electronic trading privileges to other firms and individuals who comply with the designation requirements specified in Rule 11.02.

For purposes of this Chapter 11, in connection with access to NYMEX ACCESS® Trading, the term “Electronic Trader” will refer to the firm or individual that has fully met all designation requirements required by the Exchange and has been granted the privilege of accessing the NYMEX ClearPort® Trading system.

For purposes of this Chapter 11, in connection with access to NYMEX ACCESS® via the trading graphical user interface (which may also be referred to in these rules as a front-end trading application) provided by the Exchange, the term “Authorized Terminal User” as applied to NYMEX ACCESS® will refer generally to those employees and/or agents that an Electronic Trader has designated to serve as its authorized terminal operators and has properly notified the Exchange in the manner provided by the Exchange.

For purposes of this Chapter 11, in connection with access to NYMEX ACCESS® via a front end application that is proprietary to the Electronic Trader or provided by a third party and that is certified by the Exchange, the term “Authorized Terminal User” as applied to NYMEX ACCESS® shall mean those individuals or entities (including, without limitation, the Electronic Trader’s customers, employees, agents and independent contractors) authorized by the Electronic Trader to access NYMEX ACCESS® via a Certified Application (as defined immediately below).

For purposes of this Chapter 11, in connection with access to NYMEX ACCESS® via a front-end trading application that is proprietary to the Electronic Trader or provided by a third party and that is certified by the Exchange, the term “Certified Application” shall refer to any front-end trading application, provided by Electronic Trader or a third party, via which Electronic Trader and/or its Authorized Terminal Users may access the NYMEX ACCESS® services (and all modifications of such application) and any connection of such front-end trading application to the NYMEX ACCESS® services must (i) be certified by

the Exchange in accordance with the Exchange's current technical certification procedures, as prescribed by the Exchange, and (ii) meet the Exchange's credit control and audit trail requirements as set forth by the Exchange.

~~(B) For purposes of this Chapter 11, the term "Electronic Trader" shall mean the company, in the case of an entity, or an individual in the case of an individual applicant who has met the requirements for designation provided by Rule 11.02 and has been authorized by the Exchange to obtain access to NYMEX ACCESS®. For purposes of this Chapter 11, the term "Authorized Terminal User" will refer generally to those employees and/or agents that an Electronic Trader has designated to serve as its terminal operators and has properly notified the Exchange in the manner provided by the Exchange.~~

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NYMEX Rule 11.02, Electronic Trader Designation Requirements

(A) To qualify as an Electronic Trader, an individual or entity must:

- (1) deliver to the Exchange an executed NYMEX ACCESS® System User Agreement in the form and manner prescribed by the Exchange; and
- (2) deliver to the Exchange an executed NYMEX ACCESS® Primary Clearing Member Guarantee pursuant to Rule 11.04A.

(B) Upon receipt of the documentation required in Section (A), the Exchange in its sole discretion may determine to designate the applicant as an Electronic Trader with trading rights as specified by Rule 11.20 for Class A Members and COMEX Division Members and the trading rights as specified by the Exchange for other applicants.

(C) No person who executes customer orders during Regular Trading Hours who is employed by a Member, Member Firm or Clearing Member during Regular Trading Hours in any capacity other than as a write-up clerk, as that term is defined in Rule 8.58A, may be employed by any other Member, Member firm or Clearing Member during the NYMEX ACCESS® trading session. No Clerk, as that term is defined in Rule 8.58A, may become an Electronic Trader.

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NYMEX Rule 11.03, Scope of Trading Privileges

(A) Only Electronic Traders and their Authorized Terminal Users may enter orders on NYMEX ACCESS® and any Electronic Traders and their Authorized Terminal Users, including Non-Member Electronic Traders, must comply with any and all applicable CFTC and NFA registration requirements.

(B) Commodity Trading Advisors and Commodity Pool Operators. Any Passwords assigned to a commodity trading advisor may be used only to enter orders for his own account or the accounts of his customers. Any Passwords assigned to a commodity pool operator may only be used to enter orders on behalf of the accounts the commodity pool operator manages. For purposes of this rule, customers of a commodity trading advisor shall be interpreted to refer to persons or entities for whom the commodity trading advisor holds a valid power of attorney authorizing the commodity trading advisor to exercise discretion over the individual or entity's account. A commodity trading advisor must establish and maintain a written allocation scheme or schemes before entering orders for or on behalf of his customers into the NYMEX ACCESS® system. If a commodity trading advisor maintains more than one written scheme for the allocation of trades transacted by him for or on behalf of his customers, he must elect which allocation scheme he will employ prior to entering any such orders into the NYMEX ACCESS® system, and document that selection in a time-stamped writing to be maintained by him. A commodity trading advisor that will be entering orders directly into the NYMEX ACCESS® system pursuant to this Rule 11.08 shall provide his Primary Clearing Member with a list of all clearing members to whom the commodity trading advisor may be assigning trades for clearance.

Only Electronic Traders and their Authorized Terminal Users may enter orders on NYMEX ACCESS®, as follows:

~~A) Except as otherwise provided in this rule or in Rule 11.08 with regard to commodity trading advisors and commodity pool operators, an Electronic Trader and its Authorized Terminal Users may enter orders on NYMEX ACCESS® for the account of others only if the Electronic Trader is a Member or Member Firm of the Exchange. Accordingly, except as otherwise provided in this rule, a Non-Member Electronic Trader and its Authorized Terminal Users may only enter orders into the system for the account(s) of that Electronic Trader.~~

~~B) (1) Except as otherwise provided in this rule, or unless an Authorized Terminal User is also an Electronic Trader, an Authorized Terminal User may enter orders on NYMEX ACCESS® only for an account of the Electronic Trader that has authorized him as one of its terminal users and for the customers of the authorizing Electronic Trader but only if authorized to do so by this rule or by Rule 11.08.~~

~~(2) Authorized Terminal Users who do not otherwise qualify as an Electronic Trader may not enter orders on NYMEX ACCESS® for any account in which the Authorized Terminal User has an ownership interest.~~

(C) (1) An Authorized Terminal User for a Non-Member Firm, commodity trading advisor or commodity pool operator may enter orders on NYMEX ACCESS® only for the account(s) of such firm, commodity trading advisor or commodity pool operator that employs and/or authorizes him as an Authorized Terminal User or for the accounts managed by such commodity trading advisor or commodity pool operator that employs and/or authorizes him as an Authorized Terminal User provided, however, that an Authorized Terminal User of an Electronic Trader may enter orders into the system for the account(s) of an entity that is the corporate parent of the

~~Electronic Trader or a wholly owned subsidiary of the Electronic Trader or where the Electronic Trader is an affiliate of another corporate entity and both companies are wholly owned subsidiaries of a parent company.~~

~~(D) (1) For Class A Member Electronic Trading Privileges A person who is an authorized:~~

~~(a) SYCOM trader that is a Floor Member or Local of the Sydney Futures Exchange ("SFE") or employed by a Floor Member or Local of SFE; or~~

~~(b) Member of the Hong Kong Futures Exchange ("HKFE") or employed by a Member of the Hong Kong Futures Exchange;~~

~~and is, or is employed by, an Electronic Trader who is authorized to trade the contracts available to Class A Members may enter orders for his own account, the account of his customer(s), the account of his employer or the account of customers of his employer in the contracts of the Exchange, subject to the terms of the Energy Products Access Agreement between the Exchange and SFE (the "EPAA"), or the Agreement between the Exchange and the HKFE, as applicable.~~

~~(2) (C) For COMEX Division Electronic Trading Privileges-A person who is an authorized:~~

~~(a) SYCOM trader that is a Floor Member or Local of the Sydney Futures Exchange ("SFE") or employed by a Floor Member or Local of SFE; or~~

~~(b) Member of the Hong Kong Futures Exchange ("HKFE") or employed by a Member of the Hong Kong Futures Exchange;~~

~~and is, or is employed by, a designated holder of electronic trading privileges in the COMEX Division may enter orders for his own account, the account of his customer(s), the account of his employer or the account of customers of his employer in the contracts of the COMEX Division, subject to the terms of the EPAA, or the Agreement between the Exchange and the HKFE as applicable.~~

~~(e) Any other grant of electronic trading privileges to enter customer orders in gold, silver, copper or Eurotop contracts to any person that is not a Member or employed by a Member, Member Firm, Clearing Member, NYMEX ACCESS® Trading Firm of the COMEX Division, commodity trading advisor or commodity pool operator, including by any renewal, or extension of the EPAA or any agreement with any other exchange (but excluding the grant of option trading rights to option members contemplated by Section 5.17 of the Merger Agreement) shall be treated as a Special Matter, in accordance with New COMEX By-Law 205(D)(6).~~

~~(d) The adoption of, and any amendment to, this Rule 11.03(C)(D)(2), or the adoption of any new rule or amendment to any other rule that limits, modifies or otherwise alters this Rule 11.03(C)(D)(2), and that permits customer trading rights in gold, silver, copper or Eurotop contracts shall be treated as a Special Matter, in accordance with New COMEX By-law 205(D)(6).~~

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NYMEX Rule 11.04, Responsibilities of Electronic Traders

(A) Absent notice to the contrary by the Exchange and except with respect to Electronic Traders who are COMEX Members or Member Firms or who are leasing electronic trading privileges from a COMEX Member or Member Firm, an Electronic Trader will not be limited in terms of the number of Authorized Terminal Users that may be designated by the Electronic Trader or logged onto the system at any one time. ~~Each Electronic Trader shall be responsible for all activity resulting from use of the user identification and password for that Electronic Trader (if an individual) and/or the user identification and password of any Authorized Terminal User under the control of that Electronic Trader (collectively for purposes of this Chapter 11 the "Passwords").~~

(B) Each Electronic Trader shall execute and deliver to the Exchange, a NYMEX ACCESS® System User Agreement in the form and manner prescribed by the Exchange.

(C) Each Electronic Trader shall deliver to the Exchange a NYMEX ACCESS® Primary Clearing Member Guarantee, executed by a Primary Clearing Member for that Electronic Trader, pursuant to Rule 11.04A.

Access to NYMEX ACCESS® via the Front-End Trading Application Provided by the Exchange.

(D) Each Electronic Trader shall be responsible for all activity resulting from use of the user identification and password for that Electronic Trader (if an individual) and/or the user identification and password of any Authorized Terminal User under the control of that Electronic Trader (collectively for purposes of this Chapter 11 the "Passwords")

Access to NYMEX ACCESS® via a Non-Exchange Front-End Trading Application that is Certified by the Exchange.

Each Electronic Trader agrees to be responsible for and to be bound by and to indemnify and hold the Exchange harmless for any and all actions taken , or omissions of, by Authorized Terminal Users or others using the Passwords as defined below of such , whether or not such actions were authorized, through the Electronic Trader's Certified Application.

(E) (D) A COMEX Member that has leased to an individual or Member Firm his right to apply for designation as an Electronic Trader shall not be responsible for the activities of the lessee or any individual authorized by the lessee to use NYMEX ACCESS®.

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~~NYMEX Rule 11.08, Commodity Trading Advisors and Commodity Pool Operators~~

~~(A) For purposes of this Rule 11.08, customers of a commodity trading advisor shall be persons or entities for whom the commodity trading advisor holds a valid power of attorney authorizing the commodity trading advisor to exercise discretion over the individual or entity's account.~~

~~(B) Consistent with the provisions of Rule 11.03, any Passwords assigned to a firm that is an Electronic Trader and is not a Member Firm may only be used to enter orders on behalf of that firm. Any Passwords assigned to a commodity trading advisor may be used only to enter orders for his own account or the accounts of his customers. Any Passwords assigned to a commodity pool operator may only be used to enter orders on behalf of the accounts the commodity pool operator manages.~~

~~(C) A commodity trading advisor must establish and maintain a written allocation scheme or schemes before entering orders for or on behalf of his customers into the NYMEX ACCESS® system. If a commodity trading advisor maintains more than one written scheme for the allocation of trades transacted by him for or on behalf of his customers, he must elect which allocation scheme he will employ prior to entering any such orders into the NYMEX ACCESS® system, and document that selection in a time stamped writing to be maintained by him.~~

~~(D) A commodity trading advisor that will be entering orders directly into the NYMEX ACCESS® system pursuant to this Rule 11.08 shall provide his Primary Clearing Member with a list of all clearing members to whom the commodity trading advisor may be assigning trades for clearance.~~