

June 3, 2005

**Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581**

BY E-MAIL AND FASCIMILE

SUBJECT: Request for Commission Rule Approval: Proposed Amendment to Supplement No. 2, “Licensed Depositories and Weighmasters for Silver” of the Silver Futures Contract. Submission No. 05-98.

Dear Ms. Webb:

Pursuant to Section 5c(c)(2) of the Commodity Exchange Act (the “Act”) and CFTC Rule 40.5 (“Voluntary Submission of Rules for Commission Review and Approval”), the New York Mercantile Exchange Inc. (“NYMEX” or the “Exchange”) hereby requests on a voluntary basis CFTC approval for a proposed amendment to Supplement No. 2, “Licensed Depositories and Weighmasters for Silver” of the Silver Futures Contract.

The proposed amendment and a complete explanation of its operation, purpose and effect are attached hereto.

If you have any questions concerning this submission, please contact the undersigned at 212-299-2930 or Albert J. Getz at 212-299-2608.

Sincerely,

Robert A. Levin
Senior Vice President

cc: Richard Shilts, Division of Market Oversight
Allen Cooper, Eastern Region

I. EXPLANATION AND PURPOSE

The Exchange proposes to add the Brink's Inc.'s vault facility located at 184-45 147th Avenue, Springfield Gardens, NY as a Licensed Depository for the storage of silver deliverable against the Exchange's Silver Futures Contract.

The Brink's vault facility located at 652 Kent Avenue, Brooklyn, New York Brink's has been an Exchange Licensed Depository for platinum and palladium since October 1, 2000, for silver since February 1, 2001 and for gold since October 30, 2001. This facility will continue to provide vaulting services for the Exchange's precious metals contracts. During its tenure as an Exchange Licensed Depository, Brink's has met the requirements of the Exchange. The company is also an Approved Carrier for the Exchange's Gold, Platinum and Palladium Futures Contracts.

NYMEX staff has inspected the Brink's facility at 184-45 147th Avenue, Springfield Gardens, NY and has determined that the facility meets all of the Exchange requirements to become a Licensed Depository for the storage of silver.

CORPORATE STRUCTURE AND OWNERSHIP

Brink's Incorporated, a subsidiary of Brink's Company, is the oldest and largest armored car company in the world. The company was founded by Perry Brink in Chicago, IL in 1859. It has operated continuously in the US and abroad for 140 years and is the premier provider of traditional armored car service, including security transportation, ATM service, currency processing, air courier service and related services.

The Brink's Company is publicly traded on the New York Stock Exchange under the symbol BCO.

CUSTOMER CONFIDENTIALITY

Brink's Inc. has provided a letter to the Exchange stating that all information regarding customers' accounts, such as precious metals holdings, ownership, and movement of metal is strictly confidential. Brink's Inc. is not involved in the trading of precious metals.

LEASE / VAULT CLASSIFICATION / INSPECTION

Lease

Brink's has leased the facility at 184-45 147th Avenue, Springfield Gardens, New York from 147 Springfield Associates LLC for a term of 10 years and 3 months. The lease terminates on January 31, 2014.

Vault Classification

The entire facility is constructed of a minimum of eight-inch concrete block to a height of approximately 22 feet. The entire outside perimeter of the facility and the storage area has been lined with 9 gauge steel mesh twelve feet high, the combination of which gives the facility a

Class 1 rating. The facility is manned 24/7 by armed guards. The steel reinforced ceiling, as well as the walls, has both vibration and motion sensors.

The facility is equipped with both a primary and secondary alarm systems. Each alarm system has a landline transmission with back-up landline as well as cellular and radio back-up forms of alarm transmission.

FINANCIAL

Brink's Incorporated is a wholly owned subsidiary of Brinks Company, which is traded on the New York Stock Exchange under the symbol BCO. Brink's Incorporated has submitted audited financial statements for its fiscal year ending December 31, 2004 and December 31, 2003. In the auditor's (KPMG) opinion, "the consolidated financial statements present fairly in all material aspects the financial position of Brink's Incorporated as of December 31, 2004 and 2003, and the results of its operations and cash flows for each of the years then ended, in conformity with accounting principles generally accepted in the United States of America."

For the fiscal year ending December 31, 2004, Brink's Inc. had a Tangible Net Worth of US\$439.3 million and working capital of US\$155 million.

INSURANCE

The COMEX Depository application requires that the depository institution maintain a net worth of not less than \$250 million at all times, or first loss insurance payable directly to holders of the depository receipts for the full value of metal stored at the location in the aggregate of not less than \$100 million. Exchange Rules specify that the insurance must be issued by such insurance companies, and upon such terms and conditions as are satisfactory to the Exchange. Brink's Inc satisfies the US\$250 million net worth requirement as shown above and has the following insurance in place.

Brink's has in place through Lloyd's London and certain Insurance Companies a Cargo Insurance policy with a limit of liability of US\$ 1 billion. Property under the terms of the policy is defined in part as gold, silver, platinum and palladium. With respect to any one loss, the limit of liability is US 1 billion. However, in case of successive losses during the term of the policy, the Underwriters are liable for each and all of them, up to the amount of the policy for each loss.

The policy does not cover against loss or damage caused by or resulting from: (1) war, (2) radioactive, chemical, biological contamination, or (3) terrorism. Under the terms of the policy, "losses shall be payable to third parties whom the Assured (Brink's) has agreed may be loss payees under this insurance."

The policy also states "in the event of a loss covered under this policy, and in so far as such loss has not been promptly paid by Brink's, a draft providing loss compensation will be issued by the underwriters payable jointly to Brink's Incorporated and the Loss Payee. In the event of a recoverable loss hereunder and that Brink's Incorporated becomes subject to the United States Bankruptcy Code, it is hereby noted and agreed that the warrant holders will be paid directly by underwriters hereon."

Insurance Exception to Exchange Rules:

Exchange Rule 7.05(b) states in part “All policies evidencing such insurance shall provide for delivery to the Exchange of at least ninety (90) days prior written notice of any change in the terms of or premiums for the policy and of any proposed cancellation of the policy.” The Brink’s insurance policy through Willis does not meet this requirement.

As with other policies issued by the London Market, the Underwriters will not provide the Exchange with at least ninety (90) days prior written notice of any change in the terms of or premiums for the policy and of any proposed cancellation of the policy. Willis has agreed to “give the Exchange thirty (30) days advance written notice, at the address set forth below [address of the Exchange], in the event of cancellation, non-renewal or material change in this Policy.”

The policy may be cancelled by the Insurers giving Brink’s 90 days’ notice. In its contractual agreement with Brink’s, the Exchange will require that Brink’s provide the Exchange with 90 days notice should there be any changes to the coverage under the policy. Under the terms of the Delivery Point Agreement, failure of Brink’s to provide that 90 days notice would be considered an event of default.

CURRENT METAL INVENTORY

Another important issue that must be addressed is the potential impact that adding additional facilities, with silver inventories currently in storage, would have on COMEX silver stocks and value of the COMEX Silver Futures Contract. Even though the cash market may not typically quote the proposed delivery location, this facility is currently being used to store silver.

Should Brink’s new facility be approved as an Exchange Licensed Depository any silver which is currently being stored at the facilities would be reportable as eligible stocks for the Exchange’s Inventory Report. Under Exchange Rules, all silver stocks in an Exchange Licensed Depository which meet the specifications of the Silver Futures Contract must be reported on a daily basis.

The Exchange plans to implement the proposed amendment beginning October 3, 2005. In proposing this date, the Exchange would give industry participants approximately three (3) months in which to assess the impact of the proposed amendment on their positions in the COMEX Silver Futures Contract.

Pending approval of this amendment, Brink’s Inc. will report information regarding their current stock levels and historical figures. These figures will be distributed to Exchange members weekly until the implementation date of this amendment. The release of this information will assist the industry in quantifying the actual available supply and would allow the market ample time to analyze the information before implementation.

CONDITIONS PRECEDENT

A condition precedent to the effective date of the Brink's facility in Springfield Gardens, NY becoming an Exchange Licensed Depository for silver would be the execution of legal documentation acceptable to the Exchange.

II. PROPOSED AMENDMENTS

The proposed amendments are attached.

Proposed Amendment
Bold Underlining indicates additions; [] indicated deletions.

Silver Supplement
 No. 2

COMMODITY EXCHANGE, INC.
LICENSED DEPOSITORIES AND WEIGHMASTERS FOR SILVER

| <u>Depository</u> | <u>Facilities</u> | <u>Computer Code</u> |
|---|---|----------------------|
| <u>NEW YORK</u> | | |
| SCOTIAMOCATTA DEPOSITORY, A DIVISION OF THE BANK OF NOVA SCOTIA 26 Broadway New York, NY 10004 (Orders: (212) 912-8530) | 26 Broadway New York, NY | 3001 |
| HSBC Bank USA 1 West 39 th Street, SC 2 Level New York, NY 10018 Orders: (212) 525-6439 | 1 West 39 th Street, SC 2 Level New York, NY | 5001 |
| | 425 Sawmill River Road Ardsley, New York | 5002 |
| Brink's Incorporated Suite 400 580 5 th Avenue New York, New York 10036 Orders: (718) 949-2186 | 652 Kent Avenue Brooklyn, New York | 4001 |
| | <u>184-45 147th Avenue</u> <u>Springfield Gardens, New York</u> | <u>4002</u> |
| <u>DELAWARE</u> | | |
| Delaware Depository Service Company, LLC 3601 North Market Street Wilmington, Delaware 19802 Orders: (302) 765 -3884 | 3601 North Market Street Wilmington, Delaware | 6001 |
| | 4200 Governor Printz Blvd.6002 Wilmington, Delaware | |

ADDITIONAL LICENSED WEIGHMASTERS FOR SILVER

Ledoux & Company
 359 Alfred Avenue
 Teaneck, NJ 07666
 Orders: NJ (201) 837-7160

HSBC Bank USA
 1 West 39th Street, SC 2 Level
 New York, New York 10018
 Orders: (212) 525-6439

III. EXCHANGE ACTION

The proposed amendment to Supplement No. 2, “Licensed Depositories and Licensed Weighmasters” of the COMEX Silver Futures Contract was approved by the Exchange’s Metals Advisory Committee and Board of Directors at regularly scheduled meetings. As the proposed amendment to Silver Supplement No. 2 affects a “Special Matter” under the COMEX By-Laws, notice was provided to the owners of COMEX Division Memberships who were provided with 10 days to submit a petition signed by owners of 155 COMEX Division Memberships requesting a vote of the COMEX Division to disapprove the amendments, pursuant to the procedures set forth under COMEX By-Law 205(D). No substantive opposing views were expressed and no anti-competitive effects are anticipated or are apparent.

The Exchange intends to make the amendment effective as of October 3, 2005 upon receipt of Commission approval or notification that prior approval is not needed. While there are open positions in the Silver Futures Contracts, the proposed changes and implementation of the amendment with respect to Licensed Depositories of the COMEX Silver Futures Contracts will allow market participants ample time to fully evaluate and modify their positions. These proposed rule changes are not believed to have any impact on market positions or prices.

In addition to the notification of the proposed amendment, pursuant to COMEX By-Law 205(D), given on April 8, 2005, the Membership will be informed in a Notice to Membership dated June 3, 2005 that the Exchange intends to amend Supplement No.2, “Licensed Depositories and Licensed Weighmasters” of the Silver Futures Contract as discussed above, pending approval from the Commission.

