

August 15, 2007

Via E-Mail

Office of the Acting Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Rule Certification. NYMEX Submission 07.98: Notification of Amendments to COMEX Rules: Deletion of 104.36, Exchanges for Physicals, and Addition of New 104.36, Exchange of Futures for, or in Connection with, Product (Physical); Deletion of 104.36A, EFS in Aluminum for, or in Connection with, Swap Transactions; Deletion of 104.36B, Exchange of Futures for, or in Connection with, Swap Transactions; Addition of New 104.36A, Exchange of Futures for, or in Connection with, Swap Transactions; Addition of New 104.36B, Exchange of OTC Metal Options for, or in Connection with, COMEX Metal Options; and Addition of New Rule 104.36C, Block Trades.

Dear Ms. Eileen A. Donovan:

The New York Mercantile Exchange ("NYMEX" or the "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") of amendments to COMEX Rules 104.36, 104.36A, 104.36B, and the addition of new 104.36C.

Effective for trade date Monday, August 20, 2007, these amendments include:

- Deletion of Rule 104.36, Exchanges for Physicals, and replacement with new Rule 104.36, Exchange of Futures for, or in connection with Product (Physical). The replacement Rule conforms the language of the EFP Rule to track the language in the parallel NYMEX Division Rule, and revises the acceptable methods whereby EFPs may be submitted to include direct submission through the ClearPort® Clearing Trade Entry Portal ("CPC").
- Deletion of Rules 104.36A, EFS in Aluminum for, or in Connection with, Swap Transactions, and Rule 104.36B, Exchange of Futures for, or in Connection with, Swap Transactions, and replacement of these Rules with new Rule 104.36A, Exchange of Futures for, or in Connection with, Swap Transactions. The replacement Rule 104.36A conforms the language of the EFS Rule to track the language in the parallel NYMEX Division Rule 6.21F. The new Rule expands the slate of COMEX futures contracts available for EFS transactions to include Silver (SI) and Gold (GC) Futures, and permits EFS transactions in all contract months available for trading on the Exchange. Further,

this Rule revises the acceptable methods whereby EFSs may be submitted to include direct submission through CPC.

- Addition of Rule 104.36B, Exchange of OTC Metal Options for, or in Connection with, COMEX Metal Options. This Rule permits EOO transactions in Gold (OG), Silver (SO), and Copper (HX) Options presently listed for trading on the Exchange with the addition of this new Rule which tracks the language of the NYMEX EOO Rule. Submission of these transactions will be permitted on the trading floor or through CPC.
- Addition of Rule 104.36C, Block Trades, permits Block Trades in Gold (GC) and Silver (SI) Futures for a minimum volume of 200 lots, and Copper (HG) and Aluminum (AL) Futures for a minimum volume of 100 lots. (Note that these volumes have been verified to meet the Commission's informal guidelines on minimum block size.) This Rule also parallels the language of the NYMEX Division Block Trade Rule, and also permits submission of Block Trades either on the trading floor or through CPC.

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

Should you have any questions concerning the above, please contact Nancy Minett, Vice President, Compliance, at (212) 299-2940, or myself at (212) 299-2897.

Very truly yours,

Thomas F. LaSala
Chief Regulatory Officer

cc: Brian Regan
Nancy Minett

NEW COMEX EFP and EFS Rules

COMEX Rule 104.36, Exchange of Futures for, or in Connection with, Product (Physical)

(A) An exchange of futures for, or in connection with, product (EFP) consists of two discrete, but related, transactions; a cash transaction and a futures transaction. At the time such transaction is effected, the buyer and seller of the futures must be the seller and the buyer of a quantity of the physical product covered by this Section. The quantity of physical product must be approximately equivalent to the quantity covered by the futures contracts.

(B) Eligible Contracts and Transactions:

EFP transactions may be effected in all futures contracts offered for trading on the Exchange.

(C) EFP Posting Procedures for Futures Contracts which are available for trading on the Trading Floor:

The posting of any EFP in any futures market traded on the Exchange shall be made during the hours of futures trading and otherwise in accordance with Rule 104xxx. Each EFP transaction shall be posted, immediately when relevant cash terms are determined, but in no event later than the earlier of the next business day or the end of the permissible posting period for EFPs following the expiration of the underlying futures contract, by the Floor Members and in accordance with normal procedures .

Additionally, if a futures contract available for trading on the trading floor is also available for trading on GLOBEX, EFP posting may be accomplished by submission of reports to NYMEX Clearport Clearing in accordance with its procedures.

(D) A report of EFP transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such submission shall be made by its inclusion in the daily Large Trader Reporting to the Exchange of each reportable customer, pursuant to Rule 9.33, and identified as an EFP within the Large Trader file format. The reporting of EFP transactions via Large Trader shall identify the reportable customer who executed the EFP and the kind and quantity of the futures cleared.

(E) (1) Each buyer and seller must satisfy the Exchange, at its request, that the transaction is a legitimate EFP transaction. Upon the request of the Exchange, all documentary evidence relating to the EFP, including, without limitation, evidence as to change of ownership of the cash commodity or a commitment therefore shall be obtained by the Clearing Members from the buyer or seller and made available by the Clearing Members for examination by the Exchange. Additionally, if the buyer or seller is a Member/Member Firm, the Exchange may obtain the information directly from such person(s).

(2) Failure by a buyer or seller, or its Clearing Member, to satisfy the Exchange that an EFP

transaction is bona fide, shall subject such buyer or seller if a Member/Member Firm, or the Clearing Member to disciplinary action. Such disciplinary action, depending on the gravity of the offense, may be deemed to be a major offense of the Exchange's rules. Further, if the buyer or seller is not a Member/Member Firm, the Exchange may conduct a hearing before the Business Conduct Committee to limit, condition or deny access to the market.

(F) All omnibus accounts and foreign brokers shall submit a signed EFP reporting agreement in the form prescribed by the Exchange to the Exchange's Compliance Department. Such Agreement shall provide that any omnibus account or foreign broker identified by a Clearing Member (or another omnibus account or foreign broker) as the buyer or seller of an EFP pursuant to Rule 6.21(C), shall supply the name of its customer and such other information as the Exchange may require. A report of EFP transactions shall be submitted to the Exchange by each omnibus account and foreign broker representing the buyer and/or seller. Such submission shall be made by its inclusion in the daily Large Trader Reporting to the Exchange of each reportable customer, pursuant to Rule 9.33, and identified as an EFP within the Large Trader file format. The reporting of EFP transactions via Large Trader shall identify the reportable customer who executed the EFP and the kind and quantity of the futures cleared. Failure by an omnibus account or foreign broker to submit either the agreement or the particular EFP information to the Exchange may result in a hearing by the Business Conduct Committee to limit, condition or deny access of such omnibus account or foreign broker to the market.

COMEX Rule 104.36A, Exchange of Futures for, or in Connection with, Swap Transactions

(A) An exchange of futures for, or in connection with, a swap (EFS) consists of two discrete, but related, transactions; a swap transaction and a futures transaction. At the time such transaction is effected, the buyer and seller of the futures must be, respectively, the seller and the buyer of the swap. The swap component shall involve the commodity underlying the futures contract (or a derivative, by-product or related product of such commodity). The quantity covered by the swap must be approximately equivalent to the quantity covered by the futures contracts. The swap component of an EFS transaction must comply with the applicable CFTC swap regulatory requirements.

(B) Eligible Contracts and Transactions.

Eligible contracts shall include Gold futures (GC), Silver futures (SI), Copper futures (HG), Aluminum futures (AL) and any Exchange contract that is listed for trading on GLOBEX.

(C) Posting/Submission Procedures for EFS Transactions.

(1) Contracts available for trading on the trading floor:

EFS transactions in eligible contracts which are available for trading on the trading floor shall be given on the floor of the Exchange by the Floor Members during the hours of floor trading for such contract and otherwise in accordance with Rule 6.90. Each EFS transaction shall be posted, immediately when the relevant swap terms are determined, but in no event later than the earlier

of the next business day or the end of the following permissible posting periods for EFS transactions (following the expiration of the underlying futures contract).

Additionally, EFS transactions in the contracts cited in section (B) of this rule may be accomplished by submission of reports to NYMEX Clearport Clearing in accordance with its procedures.

(D) A report of EFS transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such submission shall be made by its inclusion with EFP transactions in the daily Large Trader Reporting to the Exchange, pursuant to Rule 9.33, within the Large Trader file format. The reporting of EFS transactions via Large Trader shall identify the reportable customer who executed the EFS and the kind and quantity of the futures cleared.

(E)(1) Each buyer and seller must satisfy the Exchange, at its request, that the transaction is a legitimate EFS transaction. Upon the request of the Exchange, all documentary evidence relating to the EFS, including a master swap agreement and any supplements thereto, shall be obtained by the Clearing Members from the buyer or seller and made available by the Clearing Members for examination by the Exchange. Additionally, if the buyer or seller is a Member/Member Firm, the Exchange may obtain the information directly from such person(s).

(2) Failure by a buyer or seller, or its Clearing Member to satisfy the Exchange that an EFS transaction is bona fide shall subject such buyer or seller, if a Member/Member firm, or the clearing member to disciplinary action. Such disciplinary action, depending on the gravity of the offense, may be deemed to be a major offense of the Exchange's rules. Further, if the buyer or seller is not a Member/Member Firm, the Exchange may conduct a hearing before the Business Conduct Committee to limit, condition or deny access to the market.

(F) All omnibus accounts and foreign brokers shall submit a signed EFS reporting agreement in the form prescribed by the Exchange to the Exchange's Compliance Department. Such Agreement shall provide that any omnibus account or foreign broker identified by a Clearing Member (or another omnibus account or foreign broker) as the buyer or seller of an EFS pursuant to Rule 6.21A(C), shall supply the name of its customer and such other information as the Exchange may require. A report of EFS transactions shall be submitted to the Exchange by each omnibus account and foreign broker representing the buyer and/or seller. Such submission shall be made by its inclusion with EFP transactions in the daily Large Trader Reporting to the Exchange, pursuant to Rule 9.33, within the Large Trader file format. The reporting of EFS transactions via Large Trader shall identify the reportable customer who executed the EFS and the kind and quantity of the futures cleared. Failure by an omnibus account or foreign broker to submit either the agreement or the particular EFS information to the Exchange may result in a hearing by the Business Conduct Committee to limit condition, or deny access of such omnibus account or foreign broker to the market.

COMEX Rule 104.36B, Exchange of OTC Metal Options for, or in Connection with, COMEX Metal Options

(A) (1) An exchange of Exchange metal options for, or in connection with, an over-the counter ("OTC") metal options product (or an OTC product with similar characteristics) (hereafter an exchange of options for options or "EOO") consists of two discrete, but related, transactions; an OTC options transaction and an Exchange options transaction. At the time such transaction is effected, the buyer and seller of the Exchange options must be, respectively, the seller and the buyer of the OTC options. The OTC options component shall involve the commodity underlying the related futures contract to the Exchange options contract (or a derivative, by-product or related product of such commodity). The quantity covered by the OTC options must be approximately equivalent to the quantity covered by the Exchange options contracts.

(2) Restriction on Eligible Contracts. EOO transactions may be effected for transactions in any of the Exchange's metal options contracts.

(B)(1) Each EOO transaction shall be posted by the Floor Members and cleared through the Exchange in accordance with normal procedures and by the Clearing Members involved. Additionally, EOO posting may be accomplished by submission of reports to NYMEX ClearPort Clearing in accordance with its procedures.

(2) EOO transactions are permitted until trading terminates on the last day of trading in the applicable expiring options contract month.

(C)(1) Each buyer and seller must satisfy the Exchange, at its request, that the transaction is a legitimate EOO transaction. Upon the request of the Exchange, all documentary evidence relating to the EOO, including relevant OTC documentation, shall be obtained by the Clearing Members from the buyer or seller and made available by the Clearing Members for examination by the Exchange. Additionally, if the buyer or seller is a Member/Member Firm, the Exchange may obtain the information directly from such person(s).

(2) Failure by a buyer or seller, or its Clearing Member to satisfy the Exchange that an EOO transaction is bona fide shall subject such buyer or seller, if a Member/Member Firm, or the Clearing Member to disciplinary action. Such disciplinary action, depending on the gravity of the offense, may be deemed to be a major offense of the Exchange's rules. Further, if the buyer or seller is not a Member/Member Firm, the Exchange may conduct a hearing before the Business Conduct Committee to limit, condition or deny access to the market.

COMEX Rule 104.36C, Block Trades

(A) Block trades (privately negotiated transactions) shall be permitted in such COMEX Division products, and for such minimum quantity thresholds, and subject to such other conditions as are listed in paragraph (B) of this Rule 104.36C. The following shall govern block trades:

(1) A block trade must be for a quantity that is at or in excess of the applicable minimum quantity threshold. Orders from multiple accounts may not be aggregated in order to meet the minimum quantity threshold, except in connection with the activities of a registered commodity trading advisor or foreign person performing a similar role, as described in Paragraphs 8 and 9,

below.

(2) Each party to a block trade must be an "Eligible Contract Participant" as that term is defined in Section 1a(12) of the Commodity Exchange Act.

(3) A member shall not execute any order by means of a block trade for a customer unless such customer has specified that the order be executed as a block trade.

(4) The price at which a block trade is executed must be fair and reasonable in light of (i) the size of the block trade, (ii) the prices and sizes of other transactions in the same contract at the relevant time, (iii) the prices and sizes of transactions in other relevant markets, including without limitation the underlying cash and futures markets, at the relevant time, and (iv) the circumstances of the markets or the parties to the block trade.

(5) Block trades shall not set off conditional orders (e.g., Stop Orders and MIT Orders) or otherwise affect orders in the regular market.

(6) The buyer and seller must ensure that each block trade is reported to the Exchange within five minutes of the time of execution. The block trade must be submitted in accordance with procedures prescribed by the Exchange. The Exchange shall promptly publish block trade information separately from the reports of transactions in the regular market.

(7) Clearing members and members involved in the execution of block trades must maintain a complete record of the transaction in accordance with Exchange Rule 8.50.

(8) A commodity trading advisor ("CTA") registered or exempt from registration under the Act, including, without limitation, any investment advisor registered or exempt from registration under the Investment Advisors Act of 1940, shall be the applicable entity for purposes of Paragraphs 1, 2, 3, and 4, provided such advisors have total assets under management exceeding \$25 million and the block trade is suitable for the customers of such advisors.

(9) A foreign person performing a similar role or function to a CTA or investment advisor as described in Section (A)(1), and subject as such to foreign regulation, shall be the applicable entity for purposes of Paragraphs 1, 2, 3, and 4, provided such persons have total assets under management exceeding \$25 million and the block trade is suitable for the customers of such persons.

(B) Block trades shall be permitted in accordance with this Rule 104.36C in the following Exchange products, under the conditions described:

- (1) Gold futures contracts (GC), for a minimum quantity threshold of 200 contracts.
- (2) Silver Futures contracts (SI), for a minimum quantity threshold of 200 contracts.
- (3) Copper futures contracts (HG), for a minimum quantity threshold of 100 contracts.
- (4) Aluminum futures contracts (AL), for a minimum quantity threshold of 100 contracts.