

October 1, 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

OFFICE OF THE SECRETARIAN

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Re: Rule Certification. NYMEX Submission 07.109: Notification of Compliance Advisory - Guidelines Regarding Clerical Employees Handling GLOBEX® Orders and Block Trading

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 a Compliance Advisory – Guidelines Regarding Clerical Employees Handling GLOBEX® Orders and Block Trading.

The Compliance Advisory ("Advisory") describes the permissible scope of Member and non-Member employee of a Member ("Clerical Employee") handling of (1) customer orders for Exchange products listed for trading on the CME® GLOBEX® system received off of the trading floor, and (2) customer orders for block trades (e.g., privately negotiated transactions effected pursuant to NYMEX Rule 6.21C). The Advisory contains Questions and Answers intended to provide clarification and guidance as to the activities of Members and their Clerical Employees with respect to the handling of customer orders.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached notification complies 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.

Very truly yours,

Thomas F. LaSala
Chief Regulatory Officer

cc: Brian Regan
Nancy Minett

Notice No. 07-457
October 1, 2007

TO: All NYMEX and COMEX Members, Member Firms, Clearing Members and Operations Managers

FROM: James E. Newsome, President

RE: **Compliance Advisory – Guidelines Regarding Clerical Employees Handling GLOBEX® Orders and Block Trades**

As business on the Exchange has evolved to include **electronic trading and block trades**, questions have arisen as to the permissible scope of Member and non-Member employee of a Member ("**Clerical Employee**") handling of (1) customer orders for Exchange products listed for trading on the CME® GLOBEX® system received off of the trading floor, and (2) customer orders for block trades (e.g., privately negotiated transactions effected pursuant to NYMEX Rule 6.21C). The following Questions and Answers are intended to provide clarification and guidance as to the activities of Members and their Clerical Employees with respect to the handling of customer orders. (References to "customer" or "customer order" in this notice include both a non-Member customer and a Member-customer.)

Only Members who are registered with the CFTC as Floor Brokers ("**FBs**") may solicit customer orders or exercise discretion over execution of customer orders. A Clerical Employee who is registered with the NFA as an Associated Person ("**AP**") of a Futures Commission Merchant ("**FCM**") or Introducing Broker ("**IB**") may solicit, accept and handle customer orders for GLOBEX and block trades from on and off of the trading floor.

The permitted activities of Clerical Employees who are not registered as APs of an FCM or IB are more limited, as described below in the following Questions and Answers. Under NYMEX Rule 6.30(B)(1) Clerical Employees are permitted to work on the trading floor as GLOBEX electronic trading designees when properly registered with the Exchange as a NYMEX broker assistant ("**NBA**") (see Notice No. 315, June 8, 2006) or as a COMEX broker assistant ("**CBA**") (see Notice 636, November 30, 2006).

Members are reminded that they are responsible for supervising their Clerical Employees, and, under NYMEX Rule 6.30 (B)(5), Members may be subject to disciplinary action for any violation committed by Clerical Employees. References to "Clerical Employee" in the Questions and Answers below are to Clerical Employees who are not registered as APs of an FCM or IB.

I. Handling of Customer GLOBEX Orders Received Off of the Trading Floor

- Q1:** May a Member who is registered as an FB solicit, accept or enter into GLOBEX customer orders from off of the trading floor?
- A1:** Yes, a Member FB may solicit, accept and/or enter into GLOBEX customer orders from off of the trading floor provided that he/she has floor trading privileges on the Division applicable to the orders. (A Member who is only registered as a Floor Trader and not as a FB may not handle any customer order, either on the trading floor or off of the trading floor.)
- Q2:** May a Clerical Employee accept customer orders off of the trading floor and enter such orders for execution on GLOBEX?
- A2:** A Clerical Employee registered by a Member FB as an NBA or CBA as appropriate to the orders handled by the Clerical Employee may accept and enter customer orders into GLOBEX only from: (1) the NYMEX/COMEX trading floor; or (2) the office of his/her Member FB employer. In that regard, before permissioning a Clerical Employee that is registered as an NBA or CBA to accept or enter customer orders from any location, the Member FB should carefully consider his/her ability to effectively supervise such Clerical Employee.
- Q3:** May a Clerical Employee solicit a customer order on the trading floor or from off of the trading floor?
- A3:** No. A Clerical Employee may not solicit a customer order from any location.
- Q4:** May a Clerical Employee exercise discretion over a customer order on the floor or from off of the trading floor?
- A4:** No. A Clerical Employee may not exercise discretion over any order from any location.

II. Handling of Customer Block Trade Orders By Clerical Employees

- Q5:** May a Clerical Employee who receives on the trading floor, a request from a customer to obtain a quote ("RFQ") for a block trade, approach Members who are registered as Floor Brokers or Floor Traders who are known to make markets in block trades and request from them a quote for a block trade?
- A5:** Yes -- provided that the employer of the Clerical Employee has authorized the Clerical Employee to handle block trade orders of customers and the Clerical Employee has not solicited the customer order. After obtaining the quote in response to the customer's RFQ, the Clerical Employee must communicate the quote to the customer, but may not otherwise act on the RFQ without specific instructions from the customer.
- Q6:** If in Q5 above the Customer instructed the Clerical Employee to obtain a quote for a block trade and to effect the block order if the quote met specified price and quantity parameters, may the Clerical Employee approach Members who are registered as Floor Brokers or Floor Traders, request an RFQ, and instruct such