



C.F.T.C.
OFFICE OF THE SECRETARIAT

2010 FEB 16 AM 11 37

February 5, 2010

Mr. David Stawick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

**RE: Deletion of Rules in Chapter 7 ("Metals Rules – NYMEX Division & COMEX Division") and Modification to Rules in Chapter 7A ("Metals Rules for Electronic Warrants")
NYMEX/COMEX Submission No. 10-038**

Dear Mr. Stawick:

The New York Mercantile Exchange, Inc. ("NYMEX") and Commodity Exchange, Inc. ("COMEX") (collectively, "the Exchanges") hereby notify the Commodity Futures Trading Commission that they are eliminating the rules in Chapter 7 ("Metals Rules – NYMEX Division & COMEX Division") and making housekeeping amendments to Chapter 7A ("Metals Rules for Electronic Warrants"). The elimination of the rules in Chapter 7 is a result of the Exchanges completing the launch of a paperless Electronic Delivery System for its metals futures contracts which renders the rules in Chapter 7 unnecessary. The changes to Chapter 7A eliminate references to Aluminum futures and options which were delisted during the third quarter of 2009.

The amendments begin on the next page, with additions underscored and deletions overstruck.

The Exchanges certify that the amendments comply with the Commodity Exchange Act and regulations thereunder.

If you have any questions regarding the amendments, please contact Joann Arena, Research & Product Development, at 212.299.2356 or me at 312.648.5422. Please reference NYMEX/COMEX Submission No. 10-038 in any related correspondence.

Sincerely,

/s/ Stephen M. Szarmack
Regulatory Counsel

Chapter 7

Reserved

~~Metals Rules - NYMEX Division & COMEX Division~~

~~704. ASSAYERS~~

~~The Exchange shall appoint three assayers, who shall be designated as advisory assayers for metals. Said advisory assayers shall assist the Exchange in determining the maintenance of the integrity of the brands of Metals tenderable against Exchange contracts and the metallurgical assay of said brands. In the event that the metallurgical assay of any of the tenderable brands shall be questioned, the Exchange shall refer the matter to said advisory assayers for a report to assist said Board in its determination.~~

~~The Exchange shall appoint one or more other assayers whose duties shall be fixed by the By-Laws and Rules of the Exchange. Such assayers shall be designated as official assayers for the Exchange~~

~~705. LICENSED WAREHOUSES AND VAULTS~~

~~(a) Warehouses and vaults may be licensed and/or designated for the storage of metals upon the recommendation of the Metals Advisory Committee and with the approval of the Board. References to the Committee on Warehousing and/or the Committee on Warehousing for Metals in these rules shall mean the Metals Advisory Committee.~~

~~(b) No warehouse or vault shall be licensed and/or designated for the storage of metal unless it has in force and effect all risk insurance against loss of the metal in such amount, issued by such insurance companies, and upon such terms and conditions as are satisfactory to the Exchange. 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 continued maintenance of such insurance shall be a condition to retention of the license and/or designation of each warehouse and vault; provided, however, that any vault licensed and/or designated for the storage of gold or silver shall not be required to procure all risk insurance unless the depository's net capital is less than \$750,000,000.~~

~~(c) Warehouses and vaults licensed and/or designated shall give such bonds to the Exchange as may be required and shall pay to the Exchange such annual fee as the Exchange may fix in its discretion.~~

~~(d) A license granted to or a designation of a warehouse and vault may be cancelled at any time by a written notice of intention to cancel served upon said warehouse and vault at least thirty days before the date therein specified as the date of cancellation, whereupon the pro-rata amount of the fee paid, if any, shall be refunded. Notice of such cancellation shall be posted upon the bulletin board and mailed to members of the Exchange.~~

~~(e) Each licensed or designated warehouse or vault shall on demand furnish to the Exchange daily a list of all metals tenderable against Exchange contracts delivered to and removed from the warehouse.~~

~~(f) Each licensed or designated warehouse and vault shall cause an independent auditor to conduct an annual inventory of all stocks held and prepare a report certifying that the records of the warehouse or vault accurately reflect the stock held by the depository. Each report shall be filed with the Exchange within thirty days of the date reflected by the inventory.~~

~~(g) Licensed warehouses and vaults shall make such reports, keep such records, and permit such visitation as the Commission may prescribe. Such books and records shall be kept for a period of five years from the date thereof or for a longer period if the Commission shall so direct, and such books, records and warehouses shall be open at all times to inspection by any representative of the Commission or the United States Department of Justice.~~

~~RESOLUTION~~

~~.10 Financial Statements of Licensed Warehouses. Copies of audited statements should be filed with the Exchange as they become available. If, at any time, there is a 70% reduction in the net worth of the warehouse subsequent to the filing of an audited statement, prompt advice should be given to the Exchange.~~

~~706. RULES FOR WAREHOUSES LICENSED FOR STORAGE OF METALS~~

~~(a) Upon the arrival at a warehouse of metals bearing any brand on the official Exchange list of approved brands deliverable against Exchange contract or Copper Cathodes of an Approved Refiner, (herein referred to as "deliverable metal") they shall be stored within the protection of a completely enclosed building, or as otherwise approved by the Exchange. The metals shall remain in such storage throughout their custody by the warehouseman. Any deliverable metal which is not presently stored, as herein provided, must be immediately removed to storage space as herein prescribed and remain therein until removed from storage.~~

~~(b) Upon arrival to the warehouse of Aluminum T-Bar or Low-profile sow produced by an Approved~~

Smelter (herein referred to as "deliverable metal") it shall be stored in an Exchange approved, well secured area by the warehouseman. The metal shall remain in such storage throughout its custody by the warehouseman. Any deliverable metal which is not presently stored, as herein provided, must be immediately removed to storage space as herein prescribed and remain therein until removed from storage.

(c) While deliverable metal is in U.S. Customs custody, a warehouse receipt may be issued for such quantity as may be desired by the owner, but no warehouse receipt for such metal shall contain any representation that the metal is free of U.S. Customs custody or has been qualified for delivery against an Exchange contract.

(d) When deliverable metal is removed from U.S. Customs custody, if owner desires to have it qualified for delivery against an Exchange contract, it must be weighed up into Exchange lots (contract units) by an Exchange licensed weighmaster in accordance with Exchange requirements, and the warehouse receipt covering such units must be clearly stamped or typed and initialed by the warehouseman with the following legend:

"THE MERCHANDISE COVERED BY THIS RECEIPT HAS BEEN CLEARED THROUGH U.S. CUSTOMS AND IS ON A DELIVERABLE (FREE) DOMESTIC STATUS."

The contract units for the respective metals are as follows:

Aluminum ~ 44,000 lbs. (7% more or less)

Copper ~ 75,000 lbs. (7% more or less)

(e) When deliverable metal is stored in Exchange approved licensed warehouses outside of the U.S., it must be kept in a bonded warehouse.

(f) All warehouse receipts issued for Exchange contract units must conform to the requirements of the Exchange By-Laws and Rules for the respective metals and each contract unit must be labeled with the identifying marks referred to in the warehouse receipt.

(g) The licensed warehouse must afford to any representative of the Exchange access to the warehouse premises during normal business hours and the unrestricted right to examine any and all warehouse records covering deliverable metal.

(h) Each warehouse designated by the Exchange for the storage of aluminum, for which a warehouse receipt (warrant) has been issued, shall be responsible for the custody and safekeeping of the Chemical Analysis referred to in Rule 173.11, "Chemical Analysis", of the Aluminum Futures Contract. Such Chemical Analysis shall be maintained by the warehouse for a minimum period of five (5) years from the date of issue of the warehouse receipt or until such time that all the aluminum for which a warehouse receipt has been issued, whose quality is represented by that Chemical Analysis, has been shipped from the warehouse.

(i) Each warehouse designated by the Exchange for the storage of aluminum shall provide, if requested by the holder of the warehouse receipt, copies of the Chemical Analysis referred to in paragraph (h).

707. WHAT CONSTITUTES ONE WAREHOUSE

For purposes of delivery of metals upon contract by warehouse or vault receipts, an approved warehouse or vault shall be understood to mean a single warehouse or vault; or, a number of contiguous warehouses or vaults comprising one system of warehouses or vaults under one name or management; which have been specifically identified in the application for approval and all managed or operated by one firm or warehouseman.

708. ENFORCEMENT OF WAREHOUSE RECEIPT WITHOUT RECOURSE

The endorsement of a warehouse or vault receipt "without recourse" is improper, and the delivery of such a receipt so endorsed shall not constitute a good delivery in fulfillment of an Exchange contract.

709. LICENSED WEIGHERS

Metals shall be weighed only by weighmasters licensed and/or designated by the Exchange. Official weighmasters may be licensed and/or designated by the Exchange either upon application or upon the Board's own motion.

Weighmasters licensed and/or designated by the Exchange shall pay such annual fee to the Exchange as the Board may fix, in its discretion. Any license and/or designation issued as above provided may be cancelled by the Exchange at any time by a notice in writing stating the intention to cancel, given by the Exchange to the weighmaster; in such event, the pro-rata amount of the fee paid, if any, shall be refunded.

Notice of such cancellation shall be posted upon the bulletin board and mailed to members of the Exchange.

710. IMPORTANT DUTIES AND DOMESTIC TAXES

(a) Whenever an import duty or import tax is levied upon silver or gold, such import duty or import tax shall be assumed and be payable by the buyer upon the delivery on an Exchange contract of any silver

or gold upon which such import duty or import tax is payable.

(b) When delivered from a U.S. Exchange licensed warehouse, Copper shall be delivered free of all U.S. import duties or U.S. import taxes.

(c) Whenever an internal tax of any kind is levied by the government of the country in which an Exchange licensed warehouse is located, upon any metal which is delivered upon an Exchange contract and such tax is paid by the seller in connection with delivery upon such contract, the amount of such tax shall be added to the contract price by the seller in his invoice when delivery is made, and the amount thereof shall be paid by the buyer.

711. REPORTING RECEIPTS AND WITHDRAWALS

All warehouses licensed by the Exchange shall report all receipts and deliveries of metals tenderable against Exchange contracts on forms furnished by the Exchange, or facsimiles thereof, prior to the time designated by the Exchange.

All metals bearing an approved brand included in the official lists of the Exchange should be included in the report, including cathodes of an approved refiner. Copper in bond must be reported.

All metals held by a warehouse as identified in and in compliance with Rule 7.07 must be reported even though they are not weighed into contract units or indications given by the storer that they are intended for Exchange delivery.

The report shall be sent on the day any change occurs in the stock. ~~REPORTS SHOULD NOT BE WITHHELD AND ACCUMULATED WITH ANOTHER DAY'S RECEIPTS OR WITHDRAWALS.~~ The tonnage actually received in or withdrawn from the warehouse each day must be reported the same day.

For warehouses outside the Port of New York, transmission of the reports by fax is required.

A check on the 15th of each month of your records against actual inventory should be made to uncover any possible error or omission in previous reports.

712. CONFORMITY WITH UNITED STATES STANDARDS

Every contract for commodity futures traded on the Exchange shall require delivery thereunder of commodities of grades conforming to United States standards if such standards for such commodity shall have been officially promulgated and adopted by the Commission; provided, however, that if such standards adopted by the Commission differ from the standards for such contract adopted by the Exchange, the standard adopted by the Commission shall not apply to the existing contracts.

713. OUT-LABOR CHARGES

Where "in and out labor" charges have been paid as evidenced by the Warehouse Receipt, or otherwise, the seller shall be entitled to charge the buyer for one half of such "in and out labor" charges; in other words, the buyer will have to assume the "out labor" charges.

714. REVOCATION OF DESIGNATION AS APPROVED WAREHOUSE, VAULT OR STORE

Any approved warehouse, vault or store may be declared disapproved at any time if the operator thereof does not comply with the terms and conditions set forth in this Chapter, and the terms and conditions of the application for approval as they may be amended from time to time in the future. In the event the approval of a warehouse, vault or store is revoked by the Board, the Board shall cause a notice of such revocation to be given to all Members and Member Firms and also the period of time, if any, during which the receipts or other documents issued by such warehouse, vault or store shall thereafter be deliverable in satisfaction of Exchange contracts under the By-Laws and Rules.

Chapter 7A Metals Rules for Electronic Warrants

METALS RULES

This chapter reflects the consolidation of NYMEX Division and COMEX Division metals rules and thus will be applicable to both Divisions. The Exchange will be making Chapter 7A applicable to individual futures contracts on a rolling basis pursuant to notice to be provided by the Exchange.

7A00. SCOPE

The provisions of these rules shall apply to the storage within and delivery from a U.S. location, in fulfillment of the respective Exchange Futures Contracts of Aluminum, Copper, Gold, Platinum, Palladium and Silver.

7A01. DEFINITIONS

For the purpose of this chapter, the following terms shall have the meanings stated below:

(a) "Aluminum" shall mean aluminum that meets the specifications for delivery in fulfillment of an Aluminum Futures Contract, as set forth in the Aluminum Futures Contract contained in Chapter 17A3 of the Exchange Rule Book.

(ab) "Applicant" shall mean any Person seeking to be approved by the Exchange as a Service Provider with respect to one or more Commodities.

(be) "Approved Assayer" shall mean, with respect to a particular Commodity, an assayer approved by the Exchange for the verification of the metallurgical assay of such Commodity, as set forth in the rules for the applicable Commodity Futures Contract contained in the Exchange Rule Book.

(cd) "Approved Brand" shall mean the specific Eligible Commodity product of an Approved Producer, or the unique brand mark of the Approved Producer's specified facility that created such product for each specific contract.

(de) "Approved Carrier" shall mean an armored car company approved by the Exchange for the secure transportation of Gold, Platinum and Palladium.

(ef) "Approved Producer" shall mean, with respect to:

(i) Aluminum, a Person approved by the Exchange, whose function is to produce Aluminum as an Approved Brand;

(ii) Copper, a Person approved by the Exchange, whose function is to refine Copper into an Approved Brand;

(iii) Platinum and Palladium, a Person approved by the Exchange, whose function is to refine, and verify the metallurgical assay of, the applicable Commodity as an Approved Brand and who is approved by the Exchange for the secure transportation of such refiner's own Platinum and Palladium; and

(iiiv) Gold and Silver, a Person approved by the Exchange, whose function is to refine the applicable Commodity as an Approved Brand.

(fg) "Assay Certificate" shall have the meaning set forth in the rules for the applicable Commodity Futures Contract contained in the Exchange Rule Book.

(gh) "Buyer" shall mean the long Exchange Clearing Member under a Commodity Futures Contract.

(hi) "Certificate" shall mean a document meeting the requirements established by the Exchange and, issued by a licensed facility denoting the product stored at such facility.

(ij) "COMEX" shall mean the Commodity Exchange, Inc., a wholly owned subsidiary of the Exchange.

(ik) "Commodity" or "Commodities" shall mean Aluminum, Copper, Gold, Platinum, Palladium and Silver.

(kl) "Commission" shall mean the Commodity Futures Trading Commission.

(lm) "Contract" shall mean, with respect to a Commodity, such Commodity's Exchange Futures Contract, as set forth in the applicable Chapter of the Exchange Rule Book.

(mn) "Contract Unit" shall mean the unit of weight for a Commodity as specified in such Commodity's Contract.

(ne) "Copper" shall mean copper that meets the specifications for delivery in fulfillment of a Copper Futures Contract, as set forth in the Copper Futures Contract contained in Chapter 111 of the Exchange Rule Book.

(op) "Electronic Documents" shall mean an electronic document that is a transferable record under Article 3 of the Uniform Commercial Code ("UCC"), and a document of title under Article 7 of the UCC.

(pq) "Eligible" shall mean, with respect to any Commodity, that such Commodity is acceptable for delivery against the applicable Commodity Contract.

(qr) "Futures Contract" shall mean, with respect to any Commodity, the futures contract contained in the relevant Chapter of the Exchange Rule Book applicable to such Commodity.

(rs) "Gold" shall mean gold that meets the specifications for delivery in fulfillment of a Gold Futures Contract, as stated in the Gold Futures Contract contained in Chapter 113 of the Exchange Rule Book.

(st) "Licensed Depository" shall mean a facility approved and licensed by the Exchange for the secure storage of Gold, Silver, Palladium and/or Platinum.

(tu) "Licensed Facility" shall mean a Licensed Warehouse or a Licensed Depository.

(uv) "Licensed Warehouse" shall mean a facility approved and licensed by the Exchange for the secure storage of Aluminum and/or Copper.

(vw) "Licensed Weighmaster" shall mean a weighmaster licensed by the Exchange, whose function is to verify the weight of Aluminum, Copper, Gold and/or Silver covered by a Warrant.

(wx) "Tangible Net Worth" shall have the meaning as prescribed by U.S. GAAP.

(xy) "Palladium" shall mean palladium that meets the specifications for delivery in fulfillment of a Palladium Futures Contract, as set forth in the Palladium Futures Contract contained in Chapter 106 of the Exchange Rule Book.

(yz) "Person" shall mean an individual, partnership, limited partnership, corporation, limited liability company, unincorporated organization or association, trust or joint venture, or any other similar entity as the context reasonably permits.

(zaa) "Platinum" shall mean platinum that meets the specifications for delivery in fulfillment of a Platinum Futures Contract, as stated in the Platinum Futures Contract contained in Chapter 105 of the Exchange Rule Book.

(aab) "Seller" shall mean the short Exchange Clearing Member under a Commodity Futures Contract.

(bbe) "Service Provider" shall mean an Approved Assayer, Approved Carrier, Approved Producer, Licensed Depository, Licensed Warehouse and Licensed Weighmaster.

(ccd) "Silver" shall mean silver that meets the specifications for delivery in fulfillment of a Silver Futures Contract, as stated in the Silver Futures Contract contained in Chapter 112 of the Exchange Rule Book.

(ddee) "System" shall mean the Deliveries System maintained and operated by the Exchange, as updated from time to time.

(eeff) "Warrant" shall mean a document of title issued by a Licensed Facility, meeting the requirements of Article 7 of the UCC, and demonstrating that the referenced quantity of the covered Commodity, stored in the Licensed Facility referenced thereon, meets the specifications of the applicable Commodity Futures Contract.

(ffgg) "Weight Certificate" shall mean a document, in a format approved by the Exchange, which verifies the weight of the commodity. The weight specified in the Weight Certificate shall be binding on all parties.

7A04. WARRANTS

(A) Existing Paper Warrants Issued by Licensed Facilities. At the date of conversion and implementation of the electronic delivery system, those paper warrants issued by licensed facilities will no longer be acceptable for delivery against the respective Exchange contracts. Existing paper warrants will be converted to electronic warrants at the date of conversion upon written approval by the owner of

such warrant. Once the date of conversion occurs, existing paper warrants will no longer be deliverable on the Exchange and therefore are not subject to the Rules of the Exchange.

(B) Procedures for the Issuance of Warrants. All Warrants issued by a Licensed Facility must be issued in the name of an Exchange Clearing Member and must be in a format approved by the Exchange.

(1) Within one business day from receipt of any Commodity at a Licensed Facility, the Licensed Facility must (a) determine such Commodity's Eligibility, (b) advise the owner if the Commodity is determined to be not Eligible, and (c) if requested by the owner and provided the Commodity meets the Contract specifications, issue a Warrant. If, due to capacity limitations or any other reason, a Licensed Facility is unable to meet such requirements, the Licensed Facility shall notify the Exchange and shall describe the reason(s) for such delay.

(2) In issuing a Warrant, Licensed Facility shall be responsible for verifying that the Commodity meets all the specifications for Commodity as stated in the Exchange Rules and shall be responsible for entering all applicable information into the System.

(3) A Warrant shall be an Electronic Document in a form approved by the Exchange and issued in compliance with this Rule 7A.04, and shall be supported by such paper or other tangible documents as specified in this Rule 7A.04. Licensed Facility shall enter in the System a reference to each paper or other tangible document(s) that is related to the Warrant as specified in this Rule 7A.04.

(4) Warrants must be transferable by delivery or by delivery and endorsement by the transferor.

(5) Warrants shall not be issued for more than or less than one Contract Unit. ~~A Warrant issued for Aluminum shall be comprised of one shape and one Approved Brand.~~ A Warrant issued for Copper shall be from one Approved Brand. A Warrant may be issued for Gold, Silver, Platinum or Palladium that combines Approved Brands.

(6) A Warrant shall be of unlimited duration and remain valid until cancelled by the Licensed Facility that issued it.

(7A) Licensed Facility shall be solely responsible for insuring that no duplicate Warrants are issued, printed or released by it.

(8) In the event that any paper or other tangible document that supports a Warrant has been damaged, lost, stolen or destroyed, Licensed Facility shall issue a replacement document upon completion of its procedures for the replacement thereof.

(C) Procedures for the Cancellation of Warrants. A Warrant may be cancelled only by the Licensed Facility that issued it and only upon endorsement from the Exchange Clearing Member to such Licensed Facility in accordance with these Rules.

(1) Upon demand to an Exchange Clearing Member by the owner of the Commodity for delivery of a Commodity, the Exchange Clearing Member shall endorse in the system with delivery instructions ("the account of") and shall, upon request by the holder, issue to the holder a physical confirmation of such endorsement.

(D) Documents Required for Specific Commodity. With respect to issuance of any new Warrant, a Licensed Facility shall have and maintain in fireproof secure document storage until five (5) years following cancellation of the applicable Warrant, the following document(s) as applicable to the Commodity:

~~(1) Aluminum-~~

~~(a) Weight Certificate issued by Licensed Weighmaster, and~~

~~(b) Chemical Analysis as set forth in the Aluminum Futures Contract contained in Chapter 17A3 of the Exchange Rule Book~~

~~(12) Copper.~~

(a) Weight Certificate issued by Licensed Weighmaster, and

(b) Declaration by the Licensed Warehouse that the Copper meets the specifications for delivery in fulfillment of a Copper Futures Contract, as set forth in the Copper Futures Contract contained in Chapter 111 of the Exchange Rule Book. Upon request from the Licensed Warehouse, the Seller shall provide verification that the copper cathodes are an Approved Brand meeting the specifications of the contract, unless received directly from the producer of the Approved Brand.

(~~23~~) Gold.

(a) Weight Certificate issued by Licensed Weighmaster, and
(b) Assay Certificate if required pursuant to and as stated in the Gold Futures Contract contained in Chapter 113 of the Exchange Rule Book.

(~~34~~) Silver.

a) Weight Certificate issued by Licensed Weighmaster, if required pursuant to the Silver Futures Contract contained in Chapter 117A of the Exchange Rule Book.

(~~45~~) Palladium.

(a) Assay Certificate, if required pursuant to the Palladium Futures Contract contained in Chapter 100 of the Exchange Rule Book.

(~~56~~) Platinum.

(a) Assay Certificate, if required pursuant to the Platinum Futures Contract contained in Chapter 90 of the Exchange Rule Book.

[The remainder of rule is unchanged.]