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September 8, 2008

**VIA E-MAIL**

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

**Re: Rule Certification. New York Mercantile Exchange, Inc. Submission #08.77: Notification of Amendment to Rule 113.02 "Approved Refiners; Licensed Depositories; Licensed Weighmasters; Approved Deliverers; Approved Assayers" and to Rule 113.07 "Form of Gold Contract" expanding the geographical region where Exchange Licensed Depositories for gold may be located.**

Dear Mr. Stawick:

The New York Mercantile Exchange, Inc. ("NYMEX" or "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") that it is self-certifying amendments to Exchange Rule 113.02 "Approved Refiners; Licensed Depositories; Licensed Weighmasters; Approved Deliverers; Approved Assayers" and to Rule 113.07 "Form of Gold Contract." The amendments would expand the geographical region where Exchange Licensed Depositories for gold may be located to within a 150 mile radius of the City of New York. Currently, Licensed Depositories must be located in the City of New York.

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. These changes will be made effective on September 10, 2008.

Should you have any questions concerning the above, please contact Robert A. Levin at 212-299-2390 or the undersigned at (202) 715-8517.

Sincerely,



De'Ana H. Dow  
Managing Director

Attachment

## PROPOSED AMENDMENTS

**Proposed Rule Amendments: Underlining indicates additions; Strike through indicates deletions.**

### **Exchange Rule 113.02**

**Approved Refiners; Licensed Depositories; Licensed Weighmasters; Approved Deliverers;  
Approved Assayers.**

**Underlining indicates additions; [ ] in bold indicates deletions.**

(c) The Board Trade Group, upon the recommendation of the Committee on Precious Metals, shall license facilities located within a 150 mile radius of ~~in~~ the City of New York, in which gold may be stored for delivery on Exchange contracts ("Licensed Depositories"). Licensed depositories may be added or eliminated from time to time, and the Committee on Precious Metals shall notify members of such changes and of the time when such changes shall become effective. The addition to or elimination of the names of licensed depositories shall not be deemed to affect the amount of money to be paid or the grade or quality of gold to be delivered on Exchange contracts, and shall be binding upon all such contracts entered into before as well as after the effective date of any such change, anything in the By-Laws to the contrary notwithstanding.

[Sections (a), (b), (d), (e), (f) and (g) remain unchanged]

**Proposed Rule Amendments: Underlining indicates additions; Strike through indicates deletions.**

**Exchange Rule 113.07 –  
Form of Gold Contract.**

All contracts for the futures delivery of gold shall be in the following form.

COMMODITY EXCHANGE, INC.

GOLD CONTRACT

New York, N.Y.....20....

(sold) (deliver to)

A.B. has this day (bought) and agreed to (receive from) .....C.D. 100 troy ounces (5% more or less) of bar gold, assaying not less than 995 fineness, at the price of..... per ounce in accordance with the provisions, By-Laws and Rules of Commodity Exchange, Inc., deliverable from licensed depository within a 150 mile radius of ~~in~~ the City of New York, between the first and last delivery days of ....., inclusive, the delivery within such time to be at seller's option, upon notice to buyer as provided by the By-Laws and Rules of Commodity Exchange, Inc.

The remainder of Rule 113.07 remains unchanged.