



New York
Mercantile Exchange

NYMEX/COMEX. Two divisions, one marketplace

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July 1, 2002

**Received CFTC
Records Section**

VIA FACSIMILE

Ms. Jean A. Webb
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Amendments to Trading Facility Rules 67 Fed. Reg. 20702 (April 26, 2002)

Dear Ms. Webb:

The New York Mercantile Exchange, Inc. ("NYMEX" or the "Exchange") appreciates the opportunity to comment, on its own behalf and on behalf of its wholly-owned subsidiary, Commodity Exchange, Inc. ("COMEX"), on the CFTC's proposed technical amendments to its rules relating to trading facilities and clearing organizations. NYMEX generally supports the proposed technical amendments. In particular, we appreciate the proposed clarifying amendment to the definition of "rule" in CFTC Rule 40.1 under which the definition would specifically exclude exchange actions relating to the setting of margin levels (except with respect to security futures products and contracts on stock indices).

On the other hand, we share the concerns expressed by the Chicago exchanges regarding the proposed changes to CFTC Rules 40.1, 40.4 and 40.6. Exchanges charge various fees for a broad array of services, and historically fees that were not part of contract terms and conditions or exchange rules had not been subject to prior approval or, more recently, to self-certification. However, in the release, the Commission announced that

"[g]enerally, the Commission is clarifying that only fees related to delivery of an enumerated agricultural commodity would be subject to the prior-approval requirements of the Act, and that all other fees would be subject only to the certification requirement. Fees or fee changes of any type of less than \$1.00 are proposed to be exempt from the certification requirement (or the prior-approval requirement, if applicable) as de minimis." (emphasis added).

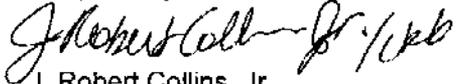
This language in the text of the release arguably raises a question as to whether the Commission is seeking to expand dramatically the scope of fees that must be self-certified. In other words, does the CFTC now seek to require any fee or fee change of any type that is greater than \$1.00 to be certified to the CFTC before it could go into effect? We do not believe that the Commission intended this result, and we encourage the Commission to confirm this point in its final rulemaking.

NYMEX thanks the Commission for the opportunity to submit comments concerning the

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The New York Mercantile Exchange is composed of two divisions. The NYMEX Division offers trading in crude oil, heating oil, unleaded gasoline, natural gas, electricity, propane, platinum, palladium, and the FTSE Eurotop 300® index. The COMEX Division offers trading in gold, silver, copper, aluminum, and the FTSE Eurotop 100® index.

Commission's proposed technical amendments and would be pleased to furnish additional information in this regard. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

J. Robert Collins, Jr.
President

cc: Chairman James E. Newsome
Commissioner Thomas J. Erickson
Commissioner Barbara P. Holum