

**October 9, 2003**

**Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20581**

**BY E-MAIL, FAX AND OVERNIGHT MAIL**

**SUBJECT: Request for Commission Approval: Proposed Amendment to Supplement No. 1 “Official List of Approved Brands and Markings” of the Copper Futures Contract. Submission No. 03-136.**

Dear Ms. Webb:

Pursuant to Section 5c(c)(2) of the Commodity Exchange Act (the “Act”) and CFTC Rule 40.5 (“Voluntary Submission of Rules for Commission Review and Approval”), the New York Mercantile Exchange Inc. (“NYMEX” or the “Exchange”) hereby requests on a voluntary basis CFTC approval for a proposed amendment to Supplement No. 1, “Official List of Approved Brands and Markings” of the Grade 1 Copper Futures Contract.

The proposed amendment and a complete explanation of its operation, purpose and effect are attached hereto.

If you have any questions concerning this submission, please contact the undersigned at 212-299-2390 or Albert J. Getz at 212-299-2608.

Sincerely,

Robert A. Levin  
Senior Vice President

cc: Richard Shilts, Division of Market Oversight  
Allen Cooper, Eastern Region

## **I. EXPLANATION AND PURPOSE**

The Exchange proposes to amend Supplement No. 1, "Official List of Approved Brands and Markings" of the Grade 1 Copper Futures Contract. The proposed amendment adds the copper brand "PD\*GO" produced by the Phelps Dodge Corporation ("PD") as acceptable for delivery against the Exchange's COMEX Division Grade 1 Copper Futures Contract. The application meets the requirements of the Exchange.

## **BACKGROUND**

PD is the largest copper producer in the United States with copper mining and refining operations located primarily in New Mexico, Arizona and Texas. The Morenci Complex, located 175 miles Northwest of Tucson, Arizona, is operated by PD which owns an 85 % undivided interest in the facility. The remaining 15% is owned by Sumitomo Metal Mining Arizona, Inc., a jointly owned subsidiary of Sumitomo Metal Mining Co., Ltd and Sumitomo Corporation. This complex comprises an open-pit mine, a concentrator, four solution extraction facilities and three electrowinning tankhouses.

At the Morenci Complex, three brands of copper cathode are produced: "PDSS" from the Southside tankhouse which is registered as acceptable for delivery on the Exchange; "PDMI" from the Central tankhouse which is also registered for delivery on the Exchange; and "PD\*GO", which is the subject of this application. The possibility of accidentally mixing the cathodes of the different brands produced at this facility is virtually impossible since, the cathode bundles have identification labels and bar codes unique to each of the tankhouses and the banding on each bundle is secured with clips which show the brand insignia. Furthermore, the distances between the tankhouses and the different harvesting procedures also mitigates against accidental commingling of the cathode brands.

The Morenci mine contains both oxide and leachable sulfide copper ore. As of December 2001, the leach ore reserves contain approximately 9,102,380 tons of copper. The "PD\*GO" copper is produced by the traditional solvent extraction electrowinning ("SX-EW") process, employing the Mt Isa technology for electrorefining. The electrowon cathodes are approximately 37.5 inches x 42 inches x 1/8 inch and weigh between 100 and 110 pounds. The cathode may be shipped as flat sheet or every second cathode pair can be corrugated to facilitate melting. Cathode bundles weigh between 4,500 and 8,000 pounds, the average being 6,500 pounds, depending on customer requirements. Production of the "PD\*GO" copper brand commenced in 2001 and 103,800 tons was produced that year. In 2002 production was 134,000 tons and production is projected to be, on average, 134,000 tons per year through 2007.

The Phelps Dodge Corporation has the following copper brands registered as acceptable for delivery against the Exchange's Grade 1 Copper Futures Contract: "PDSS": "P\*D": "SANTA RITA": "BCCC": "CBCC": "CMMC ER": "CCG": "CTB": "PDMI".

## **APPLICATION REQUIREMENTS**

The application for listing Grade 1 Copper Brands as good delivery against the COMEX Division Grade 1 Copper Futures Contract stipulates that the copper brand must be in continuous production for a minimum of six months at the rated plant capacity. The minimum level of production required is 10,000 short tons per year. The application also requires letters from three mutually acceptable copper rod manufacturers affirming that they have purchased and tested the brand and that the brand is now acceptable for use in the manufacture of rod at their plant, and detailed assays from two mutually acceptable independent assayers. The “PD\*GO” brand of electrolytic copper cathodes meets these requirements.

## **REFERENCES**

Phelps Dodge has submitted letters from the following wire rod manufacturers: Umicore Copper, Encore Wire Corporation, and Southwire. All have tested a minimum of two 200-ton lots from two different months of production and have confirmed that the cathodes conform to the chemical specifications required by ASTM B115-00. Based on these tests all three wire rod manufacturers will accept the “PD\*GO” copper brand for purposes of manufacturing continuous cast copper rod at their plants and the brand has been added to their approved list of suppliers of copper cathode.

The chemical analysis from these wire rod manufacturers is within the specifications of ASTM B115-00, the quality specification for the Grade 1 Copper Futures Contract.

## **ASSAYS**

Inspection Services, Inc., an Exchange Licensed Weighmaster, witnessed the selection of the cathodes harvested from the Stargo tankhouse which were to be assayed by two mutually independent assayers. The randomly selected cathodes were bundled and shipped to the PD refinery in El Paso, Texas for processing into copper rod. Samples were selected from four coils for chemical analysis. The samples from the first batch of cathodes harvested on January 14, 2002 and sampled on January 20, 2002 were sent to Alex Stewart (Assayers) Ltd and Ledoux & Company for chemical analysis. The samples from the second batch of cathodes harvested on February 11, 2002 and sampled on February 14, 2002 were also sent to Alex Stewart (Assayers) Ltd and Ledoux & Co. for chemical analysis. Alfred H. Knight performed conductivity testing on all of the samples. The analytical results, indicate that the “PD\*GO” brand of copper cathode conforms to ASTM B115-00 the quality specification for the Exchange’s Grade 1 Copper Futures Contract.

## **GUARANTEE**

Phelps Dodge has guaranteed that the “PD\*GO” brand of copper cathode conform to the ASTM Specification B115-00 for Grade 1 Copper Cathode as specified by ASTM and all other specifications for Grade 1 Copper Cathodes established pursuant to the By-Laws, Rules and Resolutions of the Exchange and any revisions or modifications thereto. The Guarantee is in the format required by the Exchange.

## **II. PROPOSED AMENDMENT**

The proposed amendment is attached.

**Proposed Amendment. Underlining indicates additions; [ ] bracketing indicates deletions.**

Copper Supplement  
No. 1

COMMODITY EXCHANGE, INC.  
GRADE 1 COPPER CATHODES

OFFICIAL LIST OF APPROVED BRANDS AND MARKINGS

	<u>COMPUTER CODE</u>	<u>BRAND NAME(1)</u>
ASARCO Incorporated-----	ATR	ATR
ASARCO Incorporated Ray Unit -----	RAY	ASARCO RAY GRADE 1
Atlantic Copper S.A. -----	FMS	FMS
BHP Copper Inc.-----	PINT	*PINTO
BHP Copper Inc.-----	BHPC	BHP Copper
BHP Copper Inc.-----	BHPX	BHP Copper/SXEW
BHP Copper Inc.-----	BHPP	BHP Copper/Pinto
Cobre de Mexico, S.A.-----	CDM	CDM
Codelco-Chile---Corporacion Nacional del-----	AE	AE
Cobre de Chile	CCC	CCC
	ASXW	AE SX-EW
	CSBL	cCc SBL
	CHUI	CHUQUI-P
Compania Minera Cerro Colorado Ltda-----	CMCC	CMCC
Compania Minera Dona Ines de Collahuasi SCM---	COLL	COLL
Dowa Mining Co. Ltd.-----	DOWA	DOWA
Empresa Nacional De Minería-----	NAMI	ENM
Falconbridge Limited, Kidd Creek Division-----	FKA	FKA
Huttenwerke Kayser AG-----	HKAG	HK
INCO Limited-----	ORCO	ORC
Kennecott Utah Copper Corporation-----	KUCU	KUC

**Proposed Amendment. Underlining indicates additions; [ ] bracketing indicates deletions.**

COMMODITY EXCHANGE, INC.  
 COPPER BRANDS AND MARKINGS  
 PAGE 2  
 GRADE 1 CATHODE COPPER (Cont.)

<u>PRODUCER</u>	<u>COMPUTER CODE</u>	<u>BRAND NAME (1)</u>
LG-Nikko Copper Inc. -----	ONSN	ONSAN
Metallo-Chimique International N.V.-----	SME	SME
Minera Escondida Limitada -----	ESOX	ESOX
Mitsubishi Materials Corporation-----	MTSB	MITSUBISHI
Mitsui Mining & Smelting Co. Ltd.-----	MITS TAMA	MITSUI TAMANO
Nippon Mining & Metals Co., Ltd-----	HM SR	HM SR
Noranda Metallurgy Inc. - Copper-----	CCRL	CCR
Norddeutsche Affinerie AG-----	NAEN	NA-ESN
Onahama Smelting & Refining CO. Ltd.-----	OSR	OSR
Phelps Dodge Corporation-----	PD PDSR PDSS BCCC PDMI CBCC CMMC TWIN <b><u>PDGO</u></b>	P*D SANTA RITA PDSS BCCC ("BURRO CHIEF") PDMI CBCC CMMC ER CTB <b><u>PD*GO</u></b>
Philippine Associated Smelting & Refining Corp.--	PSAR	PASAR
Sociedad Contractual Minera El Abra-----	ABRA	ABRA
Sociedad Minera Cerro Verde S.A.-----	SMCV	SMCV
Southern Peru Copper Corp.-----	SPCC	SPCC-ILO

**Proposed Amendments. Underlining indicates additions; [ ] bracketing indicates deletions.**

COMMODITY EXCHANGE, INC.  
 COPPER BRANDS AND MARKINGS  
 PAGE 3  
 GRADE 1 CATHODE COPPER (Cont.)

<u>PRODUCER</u>	<u>COMPUTER CODE</u>	<u>BRAND NAME (1)</u>
Southern Peru Copper Corporation/ Southern Peru Copper Ltd.-----	SPLX	SPCC-SXEW
Sumitomo Metal Mining Co. Ltd.-----	SUMI	SUMIKO
White Pine Copper Refinery, Inc.-----	WPCR	White Pine Copper
Zambia Consolidated Copper Mines		
Mufulira Copper Refining-----	MCM	MCM
Nkana Copper Refinery-----	REC	REC

(1) Copper Cathodes do not bear a brand marking. Accordingly, a written declaration of brand pursuant to Rule 11.16(f) of the Comex By-Laws must accompany all deliveries.

\*No Longer Produced

### **III. EXCHANGE ACTION**

The proposed amendment was approved by the NYMEX Board of Directors at a regularly scheduled meeting. No anti-competitive effects are anticipated or are apparent. There were no substantive opposing views concerning this amendment.

As the proposed amendment adding the copper brand “PD\*GO” produced by Phelps Dodge Corporation as acceptable for delivery against the COMEX Division Grade 1 Copper Futures Contract affects a “Special Matter” under the COMEX By-Laws, notice was provided to the owners of COMEX Division Memberships who were provided with 10 days to submit a petition signed by owners of 155 COMEX Division Memberships requesting a vote of the COMEX Division to disapprove the amendments, pursuant to the procedures set forth under COMEX By-Law 205(D). No petitions were received.

While there are open positions in the Copper Futures Contract, this amendment will not have an economic impact on positions or prices in the market.

The Exchange intends to implement the proposed amendment the day after it receives notification of Commission approval, or notification that such approval is not necessary.

In addition to the notification of the proposed amendment to add the copper brand “PD\*GO” produced by Phelps Dodge Corporation as acceptable for delivery against the COMEX Division Grade 1 Copper Futures Contract pursuant to COMEX By-Law 205(D), given September 15, 2003, the Membership was informed in a Notice to Membership dated October 7, 2003, that the Exchange intends to amend Supplement No. 1, “Official List of Approved Brands and Markings” of the Grade 1 Copper Futures Contract by adding the “PD\*GO” copper brand as acceptable for delivery, pending notification from the Commission.