

SUBMISSION COVER SHEET

Exchange Identifier Code (optional) _____

Date November 26, 2003

ORGANIZATION

New York Mercantile Exchange, Inc.

FILING AS A:

DCM

DCO

DTEF

TYPE OF FILING

• Rule Amendments

Self-Certification Under Reg. 40.6(a)

Commission Approval Requested Under Reg. 40.5 or 40.4 (a)

Notification of Rule Amendment Under Reg. 40.6(c)

Non-Material Agricultural Rule Change Determination Under Reg. 40.4(b)

• New Products

Self-Certification Under Reg. 40.2 or 41.23

Commission Approval Requested Under Reg. 40.3

RULE NUMBERS

Supplement No. 1, "Official List of Approved Brands and Markings" of the Grade 1 Copper Futures Contract.

DESCRIPTION (Rule Amendments Only)

The proposed rule amendment adds the copper brand "LBF" produced by Compania Minera Falconbridge Lomas Bayas as acceptable for delivery against the Grade 1 Copper Futures Contract.

November 26, 2003

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

BY E-MAIL 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. 03-161.

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 “LBF” produced by Compania Minera Falconbridge Lomas Bayas, a wholly owned subsidiary of Falconbridge Limited, as acceptable for delivery against the Exchange’s COMEX Division Grade 1 Copper Futures Contract. The application meets the requirements of the Exchange.

BACKGROUND

Falconbridge Limited (“Falconbridge”) acquired Compania Minera Falconbridge Lomas Bayas (“Lomas Bayas”) in 2001. The Lomas Bayas complex, including the SX-EW copper refinery, is located at Camino Minsal Km No. 36, Sierra Gorda, II Region, Antofagasta, Chile. The copper deposit consisting of oxide ore, of which 77.9 million tons is proven and 314.4 million tons is probable, is exploited by open pit mining operations. The average copper content of both proven and probable ore reserves is 0.32 percent. Cathodes were first produced at this facility in 1998 at the rate of 19,178 metric tons. Production has steadily increased to 59,304 metric tons in 2002 and is forecast to continue at this level through CY 2008. According to the Falconbridge annual report, the cash cost of production at this facility is US \$0.45 per pound.

The refinery employs heap leaching and solvent extraction followed by a Kidd Creek process using stainless steel cathode blanks and lead anodes. The cathodes, consisting of two hinged plates, are approximately one meter square and weigh between 75 and 85 Kg.(165 and 187 pounds). The cathodes, packed in bundles weighing between 2,450 and 2,550 Kg. (5,390 and 5,610 pounds), are secured by steel strapping and banding clips, which have the “LBF” embossed on the surface. The metallurgical characteristics of the cathodes meet the specifications set forth in ASTM B115-00, which is the quality specification for the Grade 1 Copper Futures Contract

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 “LBF” brand of electrolytic copper cathodes meets these requirements.

REFERENCES

Compania Minera Falconbridge Lomas Bayas has submitted letters from the following wire rod manufacturers: Nexans Canada, SIA Copper and Deutsche Giessdraht. All have tested a minimum of two 200-ton lots from 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 “LBF” 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

Sampling of the “LBF” copper cathodes was conducted under the supervision of Alfred H. Knight and Alex Stewart (Assayers) Ltd. The samples taken by each assayer were sealed and sent to the respective laboratories of Alfred H. Knight and Alex Stewart (Assayers) Ltd. for chemical analysis. Two different lots of production were assayed. The results of the chemical analysis indicate that the “LBF” brand copper cathodes conform to the chemical specifications outlined in ASTM B115-00 for Grade 1 Copper Cathodes.

GUARANTEE

Falconbridge Limited, parent of Compania Minera Falconbridge Lomas Bayas, has guaranteed that the “LBF” brand of electrowon copper cathodes 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 and Opinion of Counsel are 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 |
| <u>Compania Minera Falconbridge Lomas Bayas---</u> | <u>MFLB</u> | <u>LBF</u> |
| 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 | MITSUMI 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 PDGO | P*D SANTA RITA PDSS BCCC ("BURRO CHIEF") PDMI CBCC CMMC ER CTB PD*GO |
| 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 “LBF” produced by Compania Minera Falconbridge Lomas Bayas 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 “LBF” produced by Compania Minera Falconbridge Lomas Bayas as acceptable for delivery against the COMEX Division Grade 1 Copper Futures Contract pursuant to COMEX By-Law 205(D), given November 7, 2003, the Membership was informed in a Notice to Membership dated November 26, 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 “LBF” copper brand as acceptable for delivery, pending notification from the Commission.