

November 1, 2004

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

**BY E-MAIL AND FACSIMILE**

**SUBJECT: Request for Commission Rule Approval: Proposed Amendments to Supplement No. 1, "Official List of Approved Brands and Markings" of the Grade 1 Copper Futures Contract. Submission No. 04-150.**

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

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

If you have any questions concerning this submission, please contact 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 COMEX Copper Supplement No. 1 "Official List of Approved Brands and Markings" by (1) adding the Noranda Inc. copper brand "NORANDA" as acceptable for good delivery against the COMEX Grade 1 Copper Futures Contract and (2) delisting the "CCR" copper brand produced by Noranda Metallurgy Inc.

### **BACKGROUND**

Noranda Inc. is a fully integrated producer of copper metal and concentrate. Its copper business is comprised mostly of long-life, low-cost mines located primarily in South America. They include Noranda's interest in the Antamina copper and zinc mine in Peru, the Collahuasi and Lomas Bayas mines in Chile and the Kidd Creek mine in Canada. In addition to these mines, the operations include the Altonorte copper smelter in Chile, as well as refining and recycling facilities in Canada and the United States. During 2003, Noranda's copper business produced 436,000 metric tons of copper cathodes and 219,000 metric tons of copper in concentrates.

Noranda's copper refinery, CCR, is an integral part of Noranda's Canadian Copper Recycling Group and is located in Montreal, Quebec, Canada. The copper refinery has been in production since 1931 and its cathodes are registered as acceptable for delivery on the Exchange under the "CCR" brand. In the late 1990's, the refinery underwent a three-year modernization program and converted the tankhouse from conventional electrolytic copper production to the Kidd Creek process, which uses stainless steel cathode technology. This modernization was completed in 2000. The new cathode brand "NORANDA" replaces the old Noranda brand "CCR". Cathodes produced from this technology are 36.9 inches in length, 37.4 inches in width and weigh approximately 187 pounds. The cathodes are stacked in bundles weighing between 6,800 and 7,700 pounds. The top cathode of each bundle is identified by the production lot, bundle weight and bundle number of the production lot. Every third cathode in the bundle is corrugated in order to improve the melting characteristics of the bundle. Each bundle is secured by two one-inch wide steel straps secured by banding clips.

The annual capacity of the CCR refinery is 350,000 metric tones of cathodes and during 2003 the CCR refinery produced 235,425 metric tons. The primary sources of raw materials for the refinery are the Horne smelter located in Noranda, Canada and the Altonorte smelter located near Antofagasta, Chile.

Noranda Inc.-CCR in Montreal East, Quebec, Canada is ISO 9001 Certified. This certifies the quality management system of Noranda Inc. and is applicable to the refining of copper and precious metals and recovery of other related products.

The Exchange has verified that there are no copper cathodes bearing the "CCR" brand in Exchange Licensed Warehouses, therefore this brand, since it is no longer produced, will be delisted.

### **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.

## **REFERENCES**

Noranda Inc. has submitted letters from the following wire rod manufacturers: Nexans Canada, Phelps Dodge and Pirelli Cables Ltd. All have tested a minimum of two 200-ton lots from different months of production. Based on these tests all three wire rod manufacturers will accept the "NORANDA" 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 analytical results from the wire rod manufacturers indicate that the chemical composition of the cathodes is well within the requirements of ASTM B 115-00.

## **ASSAYS**

Assaying of the "NORANDA" copper cathodes was conducted by Shiva Technologies, Inc. Three different lots of production were assayed (1) May 2004 and (2) August 2000. The analytical results indicate that the "NORANDA" brand copper cathodes conform to the chemical specifications outlined in ASTM B115-00 for Grade 1 Copper Cathodes.

## **EXCEPTION**

While the application submitted by Noranda Inc. for the registration of the "NORANDA" copper brand meets most of the requirements of the Exchange's Copper Brand Application, there are two deficiencies; (1) only one mutually acceptable independent assayer was used whereas the application requires that two mutually acceptable independent assayers sample and assay 200 tons from two different months of production and (2) one of the rod mills providing references on the NORANDA brand did not report an assay for the sulfur content on one of the test runs. However, analytical results from the other rod mills and the independent assayer Shiva Technologies indicated that the sulfur content of the copper cathodes is well within the requirements of ASTM B115-00.

Even though Pirelli Cables Ltd did not perform a chemical analysis for sulfur, the Exchange has concluded that the chemical analysis performed by the independent assayer and the other two rod mills provides sufficient evidence that the sulfur level in the "NORANDA" brand of copper cathode is well within the tolerance level required by ASTM B115-00. In addition, two other major producers of copper rod who have used "NORANDA" cathodes indicated that it met the requirements of ASTM B115-00 and is acceptable for consumption in their plants. Therefore, Exchange staff believes that the absence of a sulfur assay from Pirelli Cables Ltd has been mitigated and should not prevent the approval of the "NORANDA" copper brand as acceptable for delivery against the Grade 1 Copper Futures Contract.

Noranda Inc has produced copper at the CCR refinery since 1931 and its "CCR" brand of copper cathodes are acceptable for delivery against the Grade 1 Copper Futures Contract. The "NORANDA" brand produced by the same refinery complex utilizing modern metallurgical techniques such as the Kidd Creek process has gained acceptance on a global basis. Analytical results obtained from Shiva Technologies during 2000 and 2004 and from three major producers of copper rod, Phelps Dodge, Nexans Canada and Pirelli Cables indicate that the "NORANDA" brand of copper cathodes meets the required quality specifications.

### **GUARANTEE AND OPINION OF COUNSEL**

Noranda Inc. has guaranteed that the "NORANDA" brand of 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 AMENDMENTS**

The proposed amendments are attached.

**Proposed Amendments. Underlining indicates additions; Strike through 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
	ASXW
	CSBL
	CHUI
	AE SX-EW
	cCc SBL
	CHUQUI-P
Compania Minera Cerro Colorado Ltda----- CMCC	CMCC
Compania Minera Dona Ines de Collahuasi SCM---COLL	COLL
Compania Minera Falconbridge Lomas Bayas-----LBFA	LBF
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 Amendments. Underlining indicates additions; Strikethrough 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
<b><u>Noranda Inc.</u></b>	<b><u>NORA</u></b>	<b><u>NORANDA</u></b>
<del>Noranda Metallurgy Inc. - Copper-----</del>	<del>CCRL</del>	<del>CCR</del>
Norddeutsche Affinerie AG-----	NAEN	NA-ESN
Onahama Smelting & Refining CO. Ltd.-----	OSR	OSR
Phelps Dodge Corporation-----	PD PDSR PDSS BCCC PDMI CBCC CMMC TWIN	P*D SANTA RITA PDSS BCCC ("BURRO CHIEF") PDMI CBCC CMMC ER CTB
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; Strike through 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 "NORANDA" produced by Noranda Inc. 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 "NORANDA" produced by Noranda Inc. as acceptable for delivery against the COMEX Division Grade 1 Copper Futures Contract pursuant to COMEX By-Law 205(D), given October 7, 2004, the Membership was informed in a Notice to Membership dated November 1, 2004, 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 "NORANDA" copper brand as acceptable for delivery and delisting the "CCR" copper brand, pending notification from the Commission.