

July 7, 2005

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OFFICE OF THE SECRETARIAT

**Via E-Mail**

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

**Re: Rule Certification. NYMEX Submission 05.116: Notification of Amendments to NYMEX Rule 6.90, Trading Card Procedures.**

Dear Ms. Jean Webb:

The New York Mercantile Exchange ("NYMEX" or the "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") of amendments to NYMEX Rule 6.90, Trading Card Procedures.

Effective Monday, July 11, 2005, the amendments delineate the guidelines whereby clerks will be permitted to record and submit EFP and EFS transactions on behalf of a floor broker. Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached rule amendment complies with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact Nancy Minett, Vice President, Compliance, at (212) 299-2940.

Very truly yours,

Nancy M. Minett  
Vice President  
Compliance Department

cc: Brian Regan  
Thomas LaSala

(Underlining in bold indicates additions; strikethroughs in bold indicate deletions.)

### **NYMEX Rule 6.90, Trading Card Procedures**

(A) A Floor Member shall regularly and promptly record all transactions that he executes on a sequentially numbered trading card pre-printed and issued by the Exchange. The Exchange shall maintain a record of all trading cards issued to such Floor Member. Each member shall be accountable for maintaining the original soft ply of all trading cards issued to such member in exact numerical sequence, including soft plies which are not used by the Floor Member or collected by the Exchange. **Where the transaction is an EFP or EFS, not executed by the Floor Member, the Floor Member's clerk may record the transaction on a separate trading card, provided that the trading card is clearly marked "EFP/EFS only."**

(B) All trading cards shall show the Member's symbol, the date, price differential or premium, quantity, commodity, delivery month or expiration date, the opposite Floor Member, and, for options, the strike price, and whether the transaction involved a put or a call. With the exception of trades executed during the opening or closing ranges, members shall record the exact time of execution to the minute of the first trade made on each trading card. Members shall identify on their trading cards all trades executed during the opening and closing ranges by marking a line across the card below all transactions executed during the opening and above all transactions executed during the closing range. All transactions must be recorded in exact chronological order of execution on sequential lines of the trading card without skipping lines between trades. If any lines remain after the final transaction has been recorded on a trading card, they shall be marked through by the Floor Member. **EFP/EFS transactions may be recorded on a separate non-sequentially numbered trading card.**

(C) Trading Cards may be collected by the Exchange, at such times and pursuant to such procedures as may be adopted by the Board.

(D) The hard ply of the trading card shall be used to report the sale of futures and options contracts within 1 minute of execution in accordance with Exchange Rule 6.10. Additionally, if any hard ply contains only purchases of futures or options contracts, the Floor Member must submit the hard copy ply of the trading card to the Exchange prior to using the next sequentially numbered trading card. **EFP/EFS transactions must be promptly submitted to the Exchange and may be submitted by a clerk provided however, that submission by a clerk must be made to the corrections area only. No transaction other than an EFP/EFS may be recorded or submitted by a clerk.**

(E) Members **(or for EFS/EFP transactions, their clerks)** shall use non-erasable ink when recording transactions on trading cards. Errors on trading cards may be corrected by placing a single line through the erroneous information such that the erroneous information remains plainly readable, or by rewriting the trading card; provided, however, that Members shall be required to maintain all trading cards, including **trading cards containing EFP/EFS transactions recorded by clerks and** those that have been rewritten. Floor Members may be exempt from personally retaining their trading cards if written notice, from their FCM or Member Firm employer, is

given to the Compliance Department acknowledging that it is the custodian of a Floor Member's daily trading records (i.e. trading cards, and customer order memoranda).

(F) Notwithstanding the foregoing, the Board of Directors of the Exchange may approve for use by a Floor Member a handheld electronic trading pad ("Approved Handheld") to regularly and promptly record all transactions that he executes, which produces a sequential, unalterable record of trades executed by the Floor Member and which complies with the information and record retention rules and requirements of the Exchange.

(G) If the Compliance Department determines that Members or their clerks have failed to comply with any subdivision of Rule 6.90 it may summarily implement the following disciplinary procedures:

1. A Warning Letter may be issued for a first infraction, informing the Member that there was a rule violation.
2. A Second infraction in a 12 month period may subject the Member to a \$100.00 summary fine.
3. A third infraction in an 18 month period may subject the Member to a \$500.00 summary fine.
4. A fourth infraction in a 24 month period will be sufficient basis for a Compliance Department referral to the Business Conduct Committee for formal Disciplinary Action.
5. Subdivisions 1-4 will not apply when the Compliance Department determines that a Member has committed a substantive violation of Exchange rules in addition to a trading card infraction.

(H) Any fine imposed in accordance with Rule 6.90(D) may be appealed to a subcommittee of the Compliance Review Committee ("Subcommittee"). The Subcommittee shall consist of a Chairman, two additional Subcommittee members and two alternates. The Subcommittee members and alternates shall be appointed by the Chairman of the Compliance Review Committee. To appeal a fine, a Member shall file a typewritten request with the Exchange's Compliance Counsel within five (5) business days after receipt of the notice of such fine. The letter of appeal should set forth the reason for the requested appeal and attach any relevant documents. The Subcommittee shall meet at such times as it deems appropriate, and shall reach its decision based upon the letter of appeal and any other documents furnished by the Member subject to the fine with the appeal letter or by the Compliance Department. The Subcommittee in its sole discretion may permit or require personal appearances by the Member and/or the Compliance Department. The Subcommittee shall affirm, modify or reverse the fine appealed and shall issue its Decision in writing within thirty (30) days of meeting to consider the appeal.