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December 9, 2005

OFC. 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: Amended Rule Certification. NYMEX Submission 05.207: Notification of New NYMEX Division Rule 8.21A, Maintenance of Health and Safety in Exchange Trading Rings.**

Dear Ms. Jean Webb:

The New York Mercantile Exchange ("NYMEX" or the "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") of new NYMEX Division Rule 8.21A, Maintenance of Health and Safety in Exchange Trading Rings.

Effective on the open of trading on Tuesday, January 3, 2006, NYMEX will implement procedures to set hard limits on the number of Floor Members who may stand on a particular step in the trading ring. The original NYMEX Submission 05.207 had indicated an effective date of Monday, December 12, 2005. As proffered in the Rule, implementation will be on a ring-by-ring basis as per the direction of the Board of Directors. As of the effective date, only the Crude Oil futures ring will be governed by the new Rule. The new Rule also establishes objective criteria for use by Exchange Staff in determining who would be eligible to stand on a particular step, and specifies the disciplinary action to be taken for violators of the Rule. 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 me at (212) 299-2897, or Brian Regan, Vice President and Counsel, at (212) 299-2207.

Very truly yours,

Thomas F. LaSala  
Senior Vice President  
Compliance and Risk Management

cc: Nancy Minett  
George Henderson

**NEW NYMEX RULE 8.21A**  
**(“Maintenance of Health and Safety in Exchange Trading Rings”)**

A) No Floor Member may stand on the top step, second step (or as necessary lower steps) of a NYMEX Division trading ring unless such Floor Member is presently authorized to occupy such step of the applicable trading ring by NYMEX staff. For each trading ring, NYMEX staff, in consultation with the Facilities Committee, and as may be phased in on a ring-by-ring basis in the sole discretion of the Exchange, shall initially determine the maximum number of actual Floor Members who can reasonably and safely occupy the top step, second step and as necessary any other step of that ring.

B) (1) Based upon such safety calculations, Exchange staff then will determine those Floor Members who may stand on the applicable rings based solely upon the following criteria (reviewing, on a monthly basis, trading volume (including TAS transactions but not including any non-competitive transactions such as EFP, EFS or IXA) data for the immediately preceding three-month period or such other period as may be set by Exchange staff):

(a) for the top step, total customer volume executed by a Floor Member except that no Member Firm and no billing entity may have more than three affiliated Floor Members on either of the two sides of a ring;

(b) for the second step, total trading volume executed by a Floor Member;

(c) as necessary, for lower steps in the applicable ring, total trading volume executed by a Floor Member.

In relation to the top step, for any ring where the Exchange has implemented the provisions of this rule, no Floor Member thus will be authorized to stand on the top step if such Member's trading is limited to trading solely for his own proprietary account.

(2) While the calculation for top step volume will be made on the basis of customer volume executed by individual brokers, the Exchange will permit reasonable substitutions for a broker by a Member Firm or billing entity with whom the broker is affiliated, *provided* that either the broker or the Member Firm or billing entity has for purposes of this rule given notice to the Exchange of such affiliation.

(3) Floor Members shall have the right to request a further review or reconsideration by Exchange staff of any determination affecting them or their Member Firm or billing entity, and any such requests must be submitted in the form and manner as provided by the Exchange, provided, however, that the filing of any such request for reconsideration will not excuse or justify any noncompliance with this rule.

C) No Floor Member may stand on a step after being notified by the Floor Committee that the Floor Member is not authorized to stand on that step.

D) The Floor Committee may impose summarily on any Floor Member in violation of this rule a Warning Letter and/or a fine of not less than \$1,000 dollars but not more than \$2,500 for each violation of this Rule, and violation of this Rule 8.21A for each new trading session shall constitute a separate violation, *provided that*, in the event of repeated violations by a Floor Member, the Floor Committee may determine to refer such Floor Member to the Business Conduct Committee for further action. Any fines issued pursuant to this Rule may be appealed in the same manner and under the same procedures set forth in Rule 8.21.