

March 10, 2006

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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 06.34 – Notification of Amendments to NYMEX Division Rule 9.20, Position Limits.

Dear Ms. Jean Webb:

The New York Mercantile Exchange, Inc. (“NYMEX” or the “Exchange”) hereby notifies the Commodity Futures Trading Commission (“CFTC”) of amendments to NYMEX Division Rule 9.20, Position Limits.

The amendments to Rule 9.20 include: 1) the working capital “ceiling” will be raised from \$200 million to \$1 billion; 2) the margin risk associated with NYMEX and COMEX positions will be combined; 3) the maximum risk percentages of a firm’s capital will be raised on a specified scale; and 4) position limit exemptions granted Clearing Members will result in a surcharge to the firm’s Guaranty Fund contribution. These amendments will become effective on April 1, 2006. Pursuant to Section 5c(c) of the Commodity Exchange Act (“Act”) and CFTC Rule 40.6, the Exchange hereby certifies that the new amendments comply with the Act, including regulations under the Act.

Should you have any questions concerning the above, please feel free to contact me at (212) 299-2928.

Very truly yours,

Arthur McCoy
Vice President
Financial Surveillance and Risk Management

Attachments

cc: Thomas LaSala
Nancy Minett
Brian Regan

Changes to NYMEX Rule 9.20

(Additions are **Bold and Underlined**; Deletions have a ~~strike-through~~)

NYMEX Rule 9.20, Position Limits

(A) Defined Terms

For the purpose of this Rule, the following terms shall have the meanings set forth below, unless the context otherwise requires:

(1) "Modified Capital" shall mean the working capital (as defined in Rule 9.21) of a Clearing Member, (1) increased by an amount equal to (a) the face amount of any approved letter of credit issued to the Clearing House for the capital accounts of such Clearing Member and (b) fifty percent of the working capital of any person that issues an approved Guarantee to the Clearing House for the capital account of such Clearing Member, and (2)(a) decreased by an amount equal to fifty percent of the working capital of such Clearing Member for each approved Guarantee such Clearing Member issues to the Clearing House for the capital account of another Clearing Member and ~~(b) an amount declared by such Clearing Member for the purpose of establishing position limits less than those otherwise permitted under this Rule~~; provided, however, that the capital of a Clearing Member may not be increased by letters of credit and/or guarantees by more than 100% of such Clearing Member's working capital. For the purpose of determining positions limits under this Rule, ~~modified capital will be determined for the NYMEX and COMEX Divisions independently, and the~~ **maximum working or modified** capital for each Division shall be deemed to be ~~\$200 million~~ **\$1 billion**.

(2) "Position Risk" shall mean the amount calculated using the Exchange's Standard Portfolio Analysis ("SPAN") margin system analyzing the net positions carried by the Clearing Member.

(B) Aggregate Position Limits

Except as provided in paragraphs (C) and (D) of this Rule, no Clearing Member may carry futures and/or options contracts ~~on either the NYMEX Division or the COMEX Division~~ resulting in "Position Risk" in excess of:

- (a) In the Customer Account – ~~150~~ **200**% of the firm's modified capital;
- (b) In the House Account – ~~75~~ **100**% of the firm's modified capital; or
- (c) In total – ~~200~~ **250**% of the firm's modified capital.

(C) Super Margin Deposits

Any Member may carry futures and/or options contracts resulting in Position Risk in excess of the limits established under paragraph (B) of this Rule ~~on either the NYMEX Division or the COMEX Division~~, and may have expanded position limits that result in Position Risk up to, but not in excess of:

- (a) In the Customer Account – ~~200~~ **300**% of the firm's modified capital;
- (b) In the House Account – ~~100~~ **150**% of the firm's modified capital; or
- (c) In total – ~~250~~ **350**% of the firm's modified capital.

if such Member deposits with the Clearing House (in addition to all other deposits for margins, fees or other charges that may be required), the difference between the Clearing Member's permissible Position Risk and actual Position Risk.

Such deposits shall be made at the same time and in the same form and manner, and shall otherwise be subject to the same Rules, as original margin deposits.

(D) Other Position Limits The Board (or its designee), in its discretion, may at any time establish position limits for any one or more clearing members which are higher or lower than or otherwise differ from, those established pursuant to paragraph (B), or change the amount of additional margin required pursuant to paragraph (C) or (F), based on the Board's evaluation of the financial and operational capacity of such clearing member and such other factors as the Board, in its discretion, considers appropriate, including but not limited to, (1) the business needs and financial condition of the clearing member, (2) the number of memberships or other clearing organizations held by the clearing member and the average number of contracts cleared through other clearing organizations each day by the clearing member, (3) the extent to which the clearing member trades and clears for either customer accounts, proprietary accounts, or both, (4) the length of time the clearing member has held a membership with the Clearing House, (5) the total open positions of the clearing member regularly maintained with the Clearing House and other commodity clearing organizations, and (6) such other factors as the Board, in its discretion, considers appropriate. No clearing member shall have a net interest or net straddles in excess of any such limits established by the Board. **Any increase in position limits as noted above will require the posting of additional monies into the Exchange's Guaranty Fund in an amount as deemed appropriate by the Exchange's President or designee.**

Any Clearing Member whose position limit is set at a level less than the maximum set forth in paragraph (B) of this Rule may file a written request with the Board for an increase of such limits, supporting such request with such evidence as the clearing member may desire. Thereupon, the Board, with or without a hearing as it may consider proper, shall take such action thereon as it may deem appropriate.

(E) Liquidation of Excess Positions

Any Clearing Member that exceeds its position limits under this Rule shall transfer or liquidate any futures and/or options contracts in excess of the position limits within such time as the President, in consultation with the Board, may prescribe and shall report to the President when such excess has been reduced. Such Clearing Member shall deposit additional original margin on such excess positions equal to the amount required for positions held pursuant to paragraph (C) of this Rule. If a Clearing Member fails to transfer or liquidate any excess futures contracts within the time prescribed by the President, the President or to deposit the additional original margin required by this paragraph (E), the President may liquidate or transfer such excess positions.