May 18, 2006

**Via E-Mail**

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

**Re: Rule Certification. NYMEX Submission 06.58: Notification of Copper Spot Month Position Limit Reduction [Rule 104.47(b)].**

Dear Ms. Eileen Donovan:

The New York Mercantile Exchange ("NYMEX" or the "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") of the COMEX Division Copper Futures contract spot month position limit change to 250 contracts.

Based on the continued decline of COMEX Copper warehouse stocks, in accordance with procedures described in Exchange Rule 104.47(b), the Control Committee has determined to reduce the Copper Futures spot month position limit from its present level of 400 contracts to 250 contracts effective the close of business Thursday, May 18, 2006. Exchange Notice to Members No. 06-263 dated May 17, 2006 is attached. Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached notification complies with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact Thomas LaSala, Senior Vice President, Compliance and Risk Management, at (212) 299-2897, or the undersigned at (212) 299-2940.

Very truly yours,

Nancy M. Minett
Vice President
Compliance Department

cc: Thomas LaSala
Brian Regan

## COMEX Rule 104.47 Position Limits

### 104.47 Position Limits

(a) Aggregation. The position limits established by this Rule and the position accountability levels prescribed pursuant to Rule 104.48 ("Position Accountability") shall apply to all positions held by any person, including positions in any account(s) in which such person has a financial interest of 10% or more and in any account(s) for which such person controls trading (directly or indirectly, by power of attorney or otherwise); and, in the case of positions held by two or more persons acting pursuant to an express or implied agreement or understanding, the same as if all of the positions were held by a single person. For purposes of this Rule, the term "person" shall mean any individual or entity.

(b) Applicable Limits. The maximum number of futures contracts, options on such futures contracts, or any combination thereof (collectively referred to as a "position") which any person may own or control is as follows:

| Commodity | Spot Month Net Limit* | Any One Month/All Months Net Futures Equivalent Limit |
|---|---|---|
| Gold | 3,000 | Subject to Position Accountability |
| Silver | 1,500 | Subject to Position Accountability |
| Aluminum | 750** | Subject to Position Accountability |
| Copper | 3,000*** | Subject to Position Accountability |

*Effective as of the close of business on the second last business day of the calendar month preceding the delivery month.

**To the extent that for a period of three consecutive trading days, there is either: (1) a backwardation of price between the first month and next most active month (first month's price above nearest active month's price); or (2) registered stocks which fall below 5,000 contract equivalents, the limits in place for the first month shall be reduced to 350 contracts at the close of business three trading days later unless decided otherwise by the Control Committee.

***If at any time registered stocks fall below 20,000 contract equivalents, the limits in place may be reduced below 3,000 contracts at the discretion of the Control Committee at the close of business three trading days later unless decided otherwise by the Control Committee.

(c) Computation of Positions. For purposes of this Rule,

(1) option positions shall be computed as futures equivalents. The futures equivalent of an option position shall be obtained by multiplying the preceding day's delta factor for the relevant strike price of an option, as published by the Exchange, by the number of contracts held at that strike price.

(2) a long future, a long call option and a short put option are on the same side of the market. Similarly a short future, a short call option and a long put option are on the same side of the market.

(3) in calculating a spot month position, the number of contracts against which delivery notices have been stopped (issued) during a delivery month minus the number of contracts against which delivery notices have been issued (stopped) shall be added to a long (short) spot month futures position.

(d) Enforcement of Limits.

(1) General. No member or member firm may maintain, for itself or for any customer, any position which is, or which when aggregated in accordance with section (a) of this Rule is, in excess of the applicable limit for that commodity, unless (A) a request for an exemption has been filed with the Exchange, in the case of non-spot month bona fide hedging, spread and arbitrage positions, or (B) such position have been exempted from the applicable limit. If any position exceeds the limit and has not been exempted (or is not the subject of a request for a bona fide hedge, spread or arbitrage exemption in non-spot month contract), the member or member firm maintaining or carrying the account(s) in which the position is held immediately shall take such steps as are necessary to reduce the position below the applicable limit.

(2) Alternative Delta Factors. If a position exceeds position limits when evaluated using the previous day's delta factors, but does not exceed the limit using the delta factors as of that day's close of trading, the position shall not be deemed to violate the applicable position limit.

(e) Accounts Maintained at Multiple Firms. In the event that the Exchange learns that any person maintains positions in accounts at more than one member or member firm such that the aggregate position in all the accounts exceeds the applicable position limit, the Exchange may notify the members or member firms maintaining or carrying such accounts of the total positions of such accounts. The Exchange may instruct each such member and member firm to reduce the positions in such accounts within 24 hours of receipt of such instructions, proportionately or otherwise, so that the aggregate positions in the accounts at all such members and member firms does not exceed the position limit, unless during such 24-hour period a request for an exemption from the position limit is made and granted. A member or member firm receiving such instructions immediately shall take such steps as may be necessary to liquidate such number of contracts as shall be determined by the Exchange in order to cause the aggregate positions of such accounts at such member or member firms to comply with the applicable position limit. Notwithstanding the foregoing, the members and member firms may reduce the positions of such accounts by a different number of contracts than that required by the Exchange so long as after all reductions have been completed at all member and member firms carrying such accounts, the positions at all such members or member firms shall comply with the applicable position limits.

(f) Failure to Reduce Positions. In addition to any other powers, remedies and sanctions contained in the By-laws and Rules, the Board, or upon request and delegation by the Board, the Control Committee, may require every member or member firm that maintains an account holding a position in excess of applicable position limits then in effect, to take immediate steps to reduce positions in such accounts to levels that do not violate such position limits and to take such other actions, within such periods and upon such terms, with respect to such accounts as the Board or the Control Committee may deem necessary or desirable.

(g) Submission of Request for Exemption.

(1) Source of Submission. A request for an exemption specified in section (h) of this Rule may be submitted either by the member or member firm carrying an account for which an exemption is sought, by a beneficial owner of such account, or by a person vested with discretion to trade the account, unless otherwise provided in this Rule or permitted by the Exchange.

(2) Deadline. A request for an exemption for bona fide hedging, spread and arbitrage positions must be filed within five (5) business days after a position exceeds the applicable position limit, unless the applicant is seeking an exemption for spot month positions in which case, the request must be filed and granted before the position may be increased above the applicable limit, provided, however, that the President or his designee may in special circumstances authorize the late filing of any exemption report. A request for any other type of exemption permitted under this Rule must be filed and granted before the position may be increased above the applicable limit.

(3) Form. A request shall be submitted in such form as the Exchange may prescribe and shall contain all information the Exchange may request in order to be considered complete.

(4) Identification of Accounts. If a member or member firm is submitting a request on behalf of the account holder or controller, the application must indicate whether the account holder or controller maintains positions for which the exemption is sought with any other member or member firm and/or has made a previous or contemporaneous request for an exemption through another member or member firm. If the request is submitted by the account holder or controller, the application shall identify each account (and the firm at which it is cleared) for which the exemption is sought and shall disclose whether a previous or contemporaneous request for an exemption has been made for the account.

(5) Modifications and Supplements. If any material terms of an application for an exemption change while the Exchange is reviewing the application or during the period in which the exemption is effective, the applicant shall be responsible for the submission of corrective or updated information. An applicant also must provide such additional information as the Exchange may request to evaluate the application for an exemption or to determine the scope or duration of an exemption once granted. Should the applicant fail to submit such information to the Exchange, or if any representations contained in the application are materially false, the applicant may not rely upon the exemption granted, and the Exchange may revoke the exemption or deny the application, as the case may be.

(h) Exemptions.

(1) Bona Fide Hedging Transactions. The position limits specified in section (b) of this Rule shall not apply to bona fide hedging positions, as defined in CFTC Regulation 1.3(z)(1), for which an exemption has been granted (and not revoked) by the Exchange.

An application for an exemption shall include the following:

(i) an estimate of the size of the position, by contract, intended to be established on the Exchange, for which the exemption is requested;

(ii) information, including a description of the size and type of physical commitments corresponding to the contracts for which the exemption is sought, which will demonstrate that the proposed transactions are bona fide hedges;

(iii) a representation that the intended transactions will be bona fide hedges;

(iv) a representation that the applicant immediately will report to the Exchange any material changes in circumstances or information pro- vided in the application; and

(v) such further information as the Exchange may request.

(2) Spread and Arbitrage Positions. The position limits specified in section (b) of this Rule shall not apply to spread and arbitrage positions for which an exemption has been granted (and not revoked) by the Exchange.

To be eligible for an exemption, an applicant must submit a written request to the Exchange which includes the following:

(i) an estimate of the size of the position, by contract, intended to be established on the Exchange, for which the exemption is requested;

(ii) a description of the size and type of the proposed transactions;

(iii) a representation that all of the intended transactions will be spreads or arbitrages;

(iv) a orderly manner, will not be initiated or liquidated in an orderly manner, will not be initiated or liquidated in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes, and will not be used in an attempt to violate or avoid Exchange Rules, or otherwise impair the good name or dignity of the Exchange;

(v) a representation that the applicant immediately will report to the Exchange with any material change in circumstances or information provided in the application; and

(vi) such further information as the Exchange may request.

(3) Commodity Swap Transactions. The position limits specified in section (b) of this Rule, other than the spot month limit, shall not apply to positions intended to reduce exposure resulting from commodity swap transactions which meet all of the criteria enunciated by the CFTC in the Policy Statement Concerning Swap Transactions, 54 Fed. Reg. 30694 (July 21, 1989), and as it may be amended or interpreted by the Commission, for which an exemption has been granted, and not revoked by, the Exchange.

To be eligible for an exemption for these transactions, the applicant must submit a written request to the Exchange which shall include:

(i) an estimate of the size of the position, by commodity, intended to be established on the Exchange, for which the exemption is requested;

(ii) a complete description of the underlying swap exposure;

(iii) a representation that the swap transactions satisfy the criteria outlined in the Policy Statement, as such may be amended or interpreted by the Commission;

(iv) a representation that the positions which are the subject of the exemption will be traded in an orderly manner, will not be initiated or liquidated in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes, and will not be used in an attempt to violate or avoid Exchange Rules, or otherwise impair the good name or dignity of the Exchange;

(v) a representation that the applicant immediately will report to the Exchange any material change in circumstances or information provided in the application; and

(vi) such other information as may be requested by the Exchange.

(i) Review of Application for Exemption. The President of the Exchange or his designee shall notify an applicant whether an exemption has been granted (or may continue, in the event that the applicant's request is amended) and of any limitations placed thereon, within ten (10) business days of receipt of the written submission (or amended submission, as the case may be) of the applicant and such supplemental information as the Exchange may request, or within such additional time as the Exchange may require to evaluate such filings.

(j) Duration of Exemption. An exemption from a position limit will remain in full force and effect until (i) the applicant requests a withdrawal; or (ii) the Exchange revokes, modifies or places further limitations thereon. Notwithstanding the foregoing, the President or his designee may review at any time exemptions granted under this Rule and may modify, revoke, or limit such exemptions as he so determines. Nothing in this Rule shall in any way limit (i) the authority of the Exchange to take emergency action; or (ii) the authority of the Board, or upon request and delegation by the Board, the Control Committee to review at any time the position owned or controlled by any person and to direct that a position be reduced to the position limit prescribed in this Rule.

**Notice No. 06-263**
**May 17, 2006**

TO: All Exchange Members, Member Firms and Clearing Members

FROM: James E. Newsome, President

RE: **COMEX Spot Month Copper Position Limit Reduction**

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Based on the continued decline of COMEX copper warehouse stocks, pursuant to Exchange Rule 104.47(b), the Control Committee has determined to reduce the copper futures spot month position limit from 400 contracts to 250 contracts. This reduction will be effective on the close of business Thursday, May 18, 2006, beginning with the current May 2006 copper futures contract.

Should you have any questions, please contact Anthony V. Densieski, Senior Director, Market Surveillance, at (212) 299-2881 or Bonnie Yurga, Director, Market Surveillance, at (212) 299-2879.