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November 29, 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 06.143: Notification of Rule Amendments Implementing Side-by-Side Electronic and Open Outcry Trading of COMEX Division Contracts.

Dear Ms. Eileen Donovan:

The New York Mercantile Exchange ("NYMEX" or the "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") of rule amendments implementing side-by-side electronic and open outcry trading of COMEX Division contracts.

In connection with the launch of side by side trading on the COMEX Division on Monday, December 4, 2006, amendments to various COMEX and NYMEX Division rules designed to permit and/or facilitate the side-by-side electronic and open-outcry trading of COMEX Division contracts are being implemented. The changes are similar in nature to amendments recently implemented in connection with side-by-side trading on the NYMEX Division. The attached amendments include portions of Chapters 6, 9, 11G, and 104 of the Exchange Rulebook. While most of the amendments are non-substantive, and merely clarify what provisions of the existing rules would apply to either or both of the trading forums, some of the changes are explained below.

Rule 104.07: Forms of Orders. The rule is amended to address the inclusion of choice of trading forum as an order term. Significant issues addressed include the absence of a customer's instruction regarding forum, the exercise of discretion in choosing forum, and how forum choice is to be dealt with in order ticket preparation.

Rule 104.23: Solicitation of Orders. Amendments to this rule clarify that while solicitation of orders continues to be prohibited in open-outcry unless the order to be matched against a solicited order has been announced in the ring, pre-execution discussion of orders would be permitted for electronic executions, in accordance with Rule 11G.19.

Rules 104.46 – 104.48. Rules relating to position reporting, position limits, and position accountability are being deleted in favor of similar provisions added to Chapter 9 of the Rulebook.

Rules 104.91 – 104.94A. Rules concerning calculation of settlement prices in COMEX Division contracts are being amended to include electronic trades in such calculations.

Rule 11G.19: Permissible Pre-Execution Discussions. A Globex® User would be permitted to agree in advance with another Globex® User to take the opposite side of an order, provided that five (5) seconds must elapse between the entry of the relevant orders in the system.

Rule 11G.22: Exchange of miNY Futures for Futures Transactions: Subject to certain conditions, transactions will be permitted whereby miNY Futures may be exchanged, via two discrete but related transactions, for full-size futures contracts on the same underlying commodity, in a ratio designated by the Board of Directors.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached rule amendments comply with the Act, including regulations under the Act.

Questions regarding the amendments to the COMEX Rules can be directed to Nancy Minett, Vice President, Compliance, at (212) 299-2940, Adam Wernow, Compliance Counsel, at (212) 299-2851, and myself at (212) 299-2897.

Very truly yours,

Thomas F. LaSala
Chief Regulatory Officer

cc: Nancy Minett
Adam Wernow
Brian Regan

**Amendments to Exchange Rules to Address COMEX Division Side-by-Side Trading
(Underlining indicates additions; strikethroughs indicate deletions)**

**From Chapter 6
NYMEX Division Floor Rules**

6.00 Exchange Business Day

The Exchange business day shall include ~~three~~ the following trading sessions:
a ~~NYMEX ACCESS® trading session; (COMEX Division products only);~~

a regular trading hours (RTH) trading session and

a an electronic trading session on Globex®.

The trading day shall commence with the opening of trading on Globex®. The Globex® session for NYMEX and COMEX Division products extends through RTH. The trading day will end at the close of the following session of RTH on the Exchange floor, or at the end of the Globex® trading session, whichever is later. No business will be conducted on Saturdays or Sundays with the exception of Globex® electronic trading sessions on Sunday evening for the purpose of commencing Monday's business day. The Exchange may be closed for one or more business days or trading sessions at any time by a vote of the Board.

**From Chapter 9
Exchange Clearing Rules**

9.04 Clearing Procedure

(A) Submission of Daily Reports and Checks

For each contract for the future delivery of commodities, for each options contract, and for each other contract made and/or cleared on or subject to the rules of the Exchange, each Clearing Member shall, on the day when such transaction takes place, make and deliver to the Exchange a daily report of all such contracts in accordance with rules prescribed by the Board. The aforementioned daily report shall provide the Exchange with a complete record of the essential details of all transactions.

At times and under procedures established by the Board each Clearing Member shall deposit with the Exchange required variation margin, and original margin in such form as is acceptable to the Exchange. The Exchange in like manner shall pay each Clearing Member such amounts as are due such Clearing Member. The amount payable to or by the Exchange as aforesaid shall be such amount as is necessary, after allowing for amounts theretofore paid on account, to adjust outstanding contracts with the Exchange together with all other contracts set forth in the daily report, to the last settlement prices and premiums posted by the Exchange.

(B) Payments for Original Margin

Each Clearing Member, at the time when payments are due to the Exchange as aforesaid, shall have deposited with the Exchange payment, in such form as is acceptable to the Exchange, for any original margin that may be required, as prescribed in these rules.

(C) Acceptance of Reports Final

All contracts reported to the Exchange as above provided shall be deemed accepted by it, unless the parties thereto are notified to the contrary by the Exchange on or before 9:45 a.m. on the Exchange business day following that on which the contracts are made, up to which time the Exchange has the right to refuse to accept any contract reported to it as aforesaid.

(D) Submission of Clearing Sheets

Within the time specified by the President or his designated representative, after the close of future call on each Exchange business day, each Clearing Member shall file with the Clearing House his Clearing Sheet of that day's business. The Clearing Sheet shall be in such form as the Clearing House shall prescribe and shall show in detail the following items:

- (1) open trades brought forward at the beginning of the day;
- (2) trades by such members on that day;
- (3) balanced or straddled trades;
- (4) number of trades offset;
- (5) balance open at end of day;
- (6) the amount due to or from such member on account of all adjusted transactions;
- (7) the total amount of margins due on trades made on date of Clearing Sheet;
- (8) the total amount of margins to be refunded on trades made on date of Clearing Sheet.
- (9) the total amount of premiums due on options trades made on date of clearing sheet;
- (10) the total amount of premiums to be refunded on options trades made on date of clearing sheet.

(E) Separate Sheets for House and Customer

Members having trades for their own account and for customers' accounts shall file two Clearing House Sheets, each sheet properly designated and complying with the members' own trades and the customers' trades.

(F) Reporting of Disputed Trades

Disputed transactions shall not appear upon the Clearing Sheet prior to the settlement of such disputes.

(G) Deposit for Debit Balance

If the Clearing Sheets of any Clearing Member show a debit balance such Clearing Member shall pay such balance in accordance with procedures and in such form as the Board shall specify.

(H) Refund for Credit Balance

If such Clearing Sheets show credit balances in favor of such Clearing Member after the Clearing House has had an opportunity to verify all balances on members' Clearing Sheets, the Exchange shall pay such balance in accordance with procedures and in such form as the Board shall specify.

(I) Separate Deposits and Refunds for House and Customer

Clearing Members shall give to the Clearing House separate settlement deposits for settlement of trades for: (1) members' own accounts, customers' segregated accounts, and (3) customers' non-regulated accounts; likewise the Clearing House shall issue separate refunds to members for: total credit balances on (1) the member's own trades, customers' segregated trades, and customers' non-regulated trades.

(J) Offset Memorandum

Clearing Members shall be required to submit to the Clearing House offset memoranda as demanded in the form prescribed by the Clearing House.

(K) Daily Settlement

When a Clearing Member is long or short any amount of commodity futures and options contracts at the end of the day, as indicated by his Clearing Sheet, settlement shall be made with the Clearing House to the settlement price or premium for that day, and such Clearing Member shall pay to, or collect from, the Clearing House any debit or credit, as the case may be, represented by the difference between the price or premium at which the contract was bought or sold, and the settlement price or premium of the commodity for that day. After making such settlement with the Clearing House such Clearing Member shall be deemed long or short such commodity and option, as the case may be, at the settlement price of the day.

(L) No change in records of any kind submitted to the Clearing House shall be made unless approved by the Exchange after written application thereof by the Clearing Member is made to the Exchange, stating the reason for such change.

(M) (1) When clearing operations are conducted by means of electronic data processing machines, amounts owed to the Clearing House must be deposited in accordance with procedures and in such form as the Board shall specify.

(2) Transfer information containing a customer account number, clearing member number and customer type indicator code, shall be submitted to the Exchange by the executing Floor Member within one hour after the initial transfer information is supplied by the Exchange. Disposition sheets shall be filed by 7:00 p.m. if done by paper submission, and by 8:30 p.m. if done by electronic submission.

(i) Tardy submission of transfer information, or disposition sheets, shall constitute grounds for a fine to be issued by designated Floor Department Staff or, where determined as appropriate by the Business Conduct Committee, as grounds for formal disciplinary action under Chapter 8 of the Rules.

(ii) Fines for the failure to submit transfer sheets or disposition information shall be levied by the President in amounts as the Board, by resolution, may prescribe from time to time.

(iii) As used in this subsection (M)(2), the term "failure to submit" means the failure to submit transfer information for any trade specified in this Rule 9.04 or a disposition sheet to the Clearing House on the day on which a trade is executed prior to the time at which the Clearing House begins final trade processing.

(3) The President may, at his discretion, announce times, other than those stated above, from which lateness will be computed.

(4) On the day of the expiration of an option contract, Clearing Members shall be required to have a representative available, during the times specified by the President or his designee, to review Clearing

House Reports and to make any adjustments thereto. All clearing data reported to the Exchange by a Clearing Member following the completion of the operational procedures prescribed by the President shall be deemed accepted by the Clearing Member and the Clearing Member shall waive any claim against the Exchange based upon inaccurate or erroneous data appearing on said Clearing House Reports.

(N) Each Floor Member, prior to the earliest opening of trading in a contract in which the member traded the previous day, and at regular intervals during the trading day, shall be responsible to review his ~~Broker Information Retrieval System ("BIRS")~~ screen for Electronic, or "E", mail messages.

(O) Penalties imposed under this section shall not be subject to the provisions respecting procedures for disciplinary proceedings.

(P) Concurrent Futures Positions

(1) Concurrent long and short futures positions in the current delivery month may not be offset by netting, transfer, expit, adjustment or any other bookkeeping procedures, but each side must be offset by normal floor or electronic transactions in accordance with Exchange Rules. Provided, however, that a clearing member will be exempt from this requirement if: (i) one side of the concurrent position is established the business day prior to the date that the offset memoranda are filed with the Clearing House; (ii) a clearing member filing such offset memoranda can satisfy the Exchange at its request that the delay in effecting the offset is attributed to an error in the filing of its clearing sheets; and (iii) by 10:30 a.m. on the same date that a clearing member files such offset memoranda, the clearing member also files with the Clearing House an updated and accurate Long Open Interest Report.

(2) For the purposes of this Rule 9.04(P), the current delivery month for energy futures contracts commences on the open of trading on the third business day prior to the termination of the respective futures contract, including the termination date. The current delivery month ~~in platinum and palladium for~~ metals futures commences on the tenth (10th) business day prior to the first business day of the delivery month.

(Q) Metals Inventory Report

Each Clearing Member shall report to the Exchange in the form required by the Clearing House the quantity of deliverable metal warrants, and any changes thereto, owned by the Clearing Member, or held for customers. A report of a change in such information shall be made to the Exchange within one (1) business day of such change.

(R) Submission of Long Open Interest Report

Each Clearing Member shall submit to the Exchange by 10:30 a.m. on each Exchange business day, Futures and Options Long Open Interest Report(s) on the form prescribed by the Exchange.

9.19 Final Day of Trading

(A)(1) On the final day of trading in the delivery month of a contract that is listed for trading by open outcry on the trading floor, it shall be the responsibility of each Clearing Member who is not in a position to fulfill his contractual obligation on any maturing contract by prescribed notice and tender, to have a liquidating order entered on the Exchange floor one hour before the time established for the beginning of the closing range for such delivery month. All such orders shall be market orders to be executed prior to the expiration of trading.

(2) On the final day of trading in the delivery month of a NYMEX or COMEX Division contract that is listed for trading solely on Globex®, NYMEX ACCESS® or on NYMEX ClearPort® Trading, it shall be the responsibility of each Clearing Member who is not in a position to fulfill its contractual obligation on any maturing contract by prescribed notice and tender, to have a liquidating order entered on NYMEX ACCESS® or on NYMEX ClearPort® Trading the relevant electronic trading platform.

9.26 All Month/Any One Month Position Accountability

(A) Any person, as defined in Rule 1.26, who owns or controls positions in excess of the levels cited in Chapter 9, Appendix (A) below, under heading 9.26 All Month/Any One Month Position Accountability shall be subject to the following provisions pursuant to position accountability levels:

(1) promptly supply to the Exchange such information as the Exchange may request pertaining to the nature and size of the position, the trading strategy employed with respect to the position, and the position owner's or controller's hedging requirements, provided, however, that if the position owner or controller fails to supply such information as and when requested, the President or his designee may order the reduction of such position;

(2) agree, upon request by the President or his designee, not to increase the position owned or controlled as of the time the request was received; and

(3) agree to comply with any prospective limit prescribed by the President or his designee which exceeds the size of the position owned or controlled.

(B) For the purposes of this Rule 9.26, the futures-equivalent of an option contract and spread option contract is the previous day's NYMEX Risk Factor for that option. Further, long calls, short puts and long futures are on the same side of the market; short calls, long puts and short futures are on the same side of the market.

With respect to crack spread option contracts, a call option is the equivalent of a long product futures contract and a short crude oil futures contract; a put option is the equivalent of a short product futures contract and a long crude oil futures contract. Therefore, long crack spread option calls and short crack spread option puts are on the same side of the market; short crack spread option calls and long crack spread option puts are on the same side of the market.

With respect to calendar spread option contracts, a call option is the equivalent of a long futures contract in the first underlying futures in the spread and a short futures contract in the second underlying futures in the spread; a put option is the equivalent of a short futures contract in the first underlying futures in the spread and a long futures contract in the second underlying futures in the spread.

(C) For purposes of this rule, NYMEX Light Sweet Crude Oil ~~Mini~~ miNY Futures Contract shall be deemed equivalent to .50 of a Light "Sweet" Crude Oil future, a NYMEX Natural Gas ~~Mini~~ miNY Futures Contract shall be deemed equivalent to .25 of a Natural Gas future, a NYMEX miNY Unleaded Gasoline Futures Contract shall be deemed equivalent to .50 of a Petroleum Product – New York Harbor future and a NYMEX miNY Heating Oil Futures Contract shall be deemed equivalent to .50 of a New York Harbor No. 2 Heating Oil future; a COMEX miNY Gold Futures Contract shall be deemed equivalent to .50 of a Gold future, a COMEX miNY Silver Futures Contract shall be deemed equivalent to a .50 Silver future, a COMEX miNY Copper Futures Contract shall be deemed equivalent to a .50 Copper Future.

(D) Except as provided in Rule 9.27, the any one month/all month position accountability levels for each futures contract traded on the Exchange are listed in Chapter 9, Appendix (A) below.

Note: Specific reference to contract aggregation requirements prescribed in Chapter 9, Appendix (A).

Option Contract Gross Option Quadrant Position Accountability Levels

Crude Oil Light Sweet 40,000 contracts

N.Y. Heating Oil 20,000 contracts

N.Y. Harbor Unleaded Gasoline 20,000 contracts

N.Y. Harbor Gasoline Blendstock (RBOB) Option 20,000 contracts

N.Y. Heating Oil-Crude Oil Light Sweet Spread 20,000 contracts

N.Y. Harbor Unleaded Gasoline-Crude Oil Light Sweet Spread 20,000 contracts

Natural Gas 20,000 contracts

Platinum 20,000 contracts

PJM Calendar-Month LMP Swap 10,000 contracts

9.27 Expiration and Current Delivery Month Position Limits or Position Accountability

(A) No person may own or control a net long position or a net short position in the expiration or current delivery month (as defined in this Rule 9.27 for energy and metals contracts respectively) in excess of the levels set forth in Chapter 9, Appendix (A) below under 9.27 Expiration and Current Delivery Month Position Limits or Position Accountability.

Note: Specific reference to contract aggregation requirements prescribed in Chapter 9, Appendix (A).

(B) The expiration position limits for energy contracts set forth below are effective on the open of trading of the last three trading days of the futures contract. The expiration position limits shall be calculated on a net futures-equivalent basis. For purposes of this rule, NYMEX Light Sweet Crude Oil Mini miNY Futures Contract shall be deemed equivalent to .50 of a Light "Sweet" Crude Oil future, a NYMEX Natural Gas Mini miNY Futures Contract shall be deemed equivalent to .25 of a Natural Gas future, a NYMEX miNY Unleaded Gasoline Futures Contract shall be deemed equivalent to .50 of a Petroleum Product – New York Harbor future and a NYMEX miNY Heating Oil Futures Contract shall be deemed equivalent to .50 of a New York Harbor No. 2 Heating Oil future; a COMEX miNY Gold Futures Contract shall be deemed equivalent to .50 of a Gold future, a COMEX miNY Silver Futures Contract shall be deemed equivalent to a .50 Silver future, a COMEX miNY Copper Futures Contract shall be deemed equivalent to a .50 Copper Future.

(C) The expiration month position limit for the PJM contracts are effective on the opening of trading on all business days when a contract month becomes the first nearby month (or spot month) and continues on an intra-day basis thereafter until the conclusion of trading in the expiring contract. The expiration month position limit shall be calculated on a net futures-equivalent basis.

(D) The current delivery month position limits for platinum and palladium metals contracts are effective on the business day prior to the first notice day for any delivery month. No person shall maintain any position which, when combined with the number of contracts for which a delivery notice has been tendered or accepted during the delivery month, exceeds the maximum permissible current delivery month position limit for such contract.

~~(1) Unless otherwise agreed, all orders received for execution on NYMEX ACCESS® shall be deemed to be cancelled if not executed during the trading session for which they were received~~

9.27A Expiration Position Accountability Levels

A) Any person who owns or controls positions in excess of the levels cited in Chapter 9, Appendix (A) below, under heading 9.27A Expiration Position Accountability Levels, shall be subject to the following provisions pursuant to position accountability levels:

(1) promptly supply to the Exchange such information as the Exchange may request pertaining to the nature and size of the position, the trading strategy employed with respect to the position, and the hedging requirements (if any), provided, however, that if the principal or controller fails to supply such information as and when requested, the President or his designee may order the reduction of such position;

(2) agrees, upon request by the President or his designee, not to increase the position owned or controlled as of the time the request was received;

(3) agrees to comply with any limit prescribed by the President or his designee, and to decrease any open position if directed upon review of the information cited in item 1 above.

(4) The Expiration Position Accountability Levels for designated energy contracts are effective on the open of trading of the last three (3) trading days of the related physically delivered futures contracts. The expiration position limits shall be calculated on a net futures-equivalent basis and will aggregate appropriate contracts as identified in Chapter 9, Appendix A.

(5) Trading in the underlying physically delivered contract that is the basis for the settlement prices for all contracts subject to this rule shall additionally be subject to NYMEX Interpretive Notice 01-06.

9.28 Exemptions from Position Limits for Bona Fide Hedging Transactions

(A) The limits set forth at Rule 9.27 shall not apply to bona fide hedging transactions as defined in §1.3(z)(1) of the Regulations of the Commission (17 C.F.R. §1.3(z)(1)), as it may be amended from time to time.

(B) Notwithstanding the provisions of Subsection (A) of this Rule 9.28, any person who owns or controls a bona fide hedging position in excess of the levels set forth in Rule 9.27 must comply with the applicable provisions of Rules 9.29, 9.31, 9.32 and this Rule 9.28.

(C) Any person who owns or control bona fide hedge positions must initiate and liquidate positions in accordance with sound commercial practices and in an orderly manner; trading shall not be conducted in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes. No person shall use hedge positions to attempt to violate or avoid the By-Laws and Rules or to impair the good name of the Exchange.

(D) Any person who received approval to own or control positions classified as bona fide hedge positions shall submit to the Exchange, upon the request of the Board, the Control Committee or the President any information required by the Board, the Control Committee or the President or his designee (collectively, the "President" for purposes of Rules 9.28-9.36).

(E) Whenever an order of the Board, of the Control Committee or of any other Committee of the Exchange excludes from the operation of the order bona fide hedge positions or transactions, any person who desires his positions or transactions to be excluded must file a Hedge Notice with the Exchange as provided in this Chapter 9.

(F) Nothing in this Chapter 9 concerning exemption from position limits or any related provision shall in any way limit (i) the authority of the Exchange to take emergency action or (ii) the authority of the President to review at any time the position owned or controlled by any person and to direct that a position be reduced to the level provided for by Rules 9.26 or 9.27.

9.29A Exemptions from Position Limits for Exposure Associated with ~~NYMEX~~ Physical versus Cash Settled Arbitrage Transactions

(A) A person may apply to the Exchange for an exemption from the position limits set forth in Rule 9.27 related to contracts CL, NG, HO, HU ~~and~~ RB, GC, SI, and HG, where such exemption is in connection with open arbitrage positions in the associated Penultimate Cash-Settled Contracts (WS, HP, NP, BH, RT), miNY Contracts (QM, QG, QH, QU, QQ, QI, QC), Last Day Cash-Settled Contracts (HH, NN) and Cash-Settled Penultimate Options (LC, LN, LB, LG).

(B) Applicants for an exemption under this Rule shall apply to the President or his authorized representative (referred to as the "President"), on forms provided by the Exchange, not more than two (2) days after assuming a position in excess of position limits under this Rule.

The Application shall include: a list of the contracts for which exemption is requested; an agreement to comply with the limits imposed with respect to the proposed transactions; an agreement to comply with the By-Laws and Rules of the Exchange; agreement to initiate and liquidate positions in accordance with sound commercial practices and in an orderly manner; and such other information, and representations as may be required by the Exchange.

(C) Any person who receives approval to own or control positions pursuant to this Rule shall provide to the Exchange, upon the request of the Board, the Control Committee, or the President, any information or documentation requested relating to the exemption.

(D) The President shall, on the basis of the application and supplemental information which the Exchange may request, determine whether an exemption from speculative position limits shall be granted. The President may deny, condition or impose limitations upon an exemption request based upon the applicant's business needs, financial status and integrity, the bona fides of the underlying swap transactions, on the liquidity, depth and volume of the market for which the exemption is sought, and on such factors as the President deems appropriate. The President may review at any time exemptions granted under this Rule, and may modify, revoke or place limitations on the exemption.

(E) 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 President to review at any time the position owned or controlled by any person and to direct that a position be reduced to the level provided for by Rule 9.27.

(F) Any person who has received from the President written authorization to exceed position limits imposed under Rule 9.27 must file with the Exchange an updated application annually, no later than the anniversary date of the initial authorization, or waive the exemption.

9.33 Position Reporting

(A) Each Clearing Member shall submit to the Exchange reports of positions equal to or in excess of the levels established by Rule 9.34. Such reports shall be submitted by no later than 8:00 A.M. in an approved machine readable format unless authorized otherwise in advance by the Director of Market Surveillance or his designee.

(B) Any omnibus account or foreign broker shall submit a signed NYMEX reporting agreement in the form prescribed by the Exchange to the Exchange's Compliance Department upon becoming reportable. Any reportable omnibus account or foreign broker shall submit to the Exchange separately identifying all proprietary and customer positions equal to or in excess of the levels established by Rule 9.34. Such reports shall be submitted in the form prescribed by the Exchange by no later than 8:00 A.M. unless authorized otherwise in advance by the Senior Director of Market Surveillance or his designee. The failure by an omnibus account or foreign broker to submit a signed NYMEX reporting agreement or properly report positions may result in a hearing by the Business Conduct Committee to limit, condition or deny access to the market.

(C) Interest in or Control of Several Accounts.

(1) If any person holds or has a financial interest in or controls more than one account, all such accounts shall be considered by the clearing member, omnibus account or foreign broker as a single account for reporting purposes.

(i) Accounts of Eligible Entities.

Accounts of Eligible Entities as defined in Rule 9.28(F) of this chapter that are traded by an independent account controller shall, together with other accounts traded by the independent account controller or in which the independent controller has an interest be considered a single account.

(ii) Accounts Controlled by Two or More Persons.

Accounts that are subject to day-to-day trading control by two or more persons shall, together with other accounts subject to control by exactly the same persons, be considered a single account.

(2) For purposes of this Rule 9.33, except for the interest of a limited partner or shareholder (other than the CPO) in a commodity pool, the term financial interest shall mean an interest of 10 percent or more in ownership or equity of an account.

(D) For purposes of sections (A), (B) and (C) above, if a person controls or holds a position equal to or greater than the number of contracts specified in Rule 9.34 long or short in any one month, then all such futures and options on such futures whether above the given level or not, shall be deemed reportable positions.

(E) All Clearing Members, omnibus accounts and foreign brokers for the purposes of sections (A), (B), (C) and (D) above, shall report to the Exchange each account in excess of the levels established in Rule 9.34 by a unique numeric designation. The unique numeric designation shall be established by filing with the Director of Market Surveillance a CFTC Form 102 meeting all the requirements of Section 17.01(b) of the Regulation of the Commission (17 C.F.R. Section 17.01(b)), as it may be amended from time to time, within one business day of when the account becomes reportable for the first time. The Clearing Member, omnibus account or foreign broker, as the case may be, shall file an updated Form 102 with the

Exchange within one business day after any material change in the information supplied on the Form 102 occurs.

**From Chapter 11G
NYMEX Electronic Trading Rules for Globex® Trading System**

NOTE: except as otherwise specifically noted, any references to NYMEX in this Chapter 11G that are not followed by the term the Division shall be understood to refer both to the NYMEX and COMEX Divisions, except that for purposes of clarity, the Exchange may in addition include various references to COMEX in these rules

11G.03 Globex® Control Center and Limitation of Liability

(A) The Globex® Control Center ("GCC") provides Globex® customer support and problem management only to members, clearing members and customers designated by clearing members. In addition, designated NYMEX and COMEX members and clearing members may also receive customer support and problem management from GCC with respect to contracts traded on Globex®. In order to be eligible for GCC support, such persons must register with the GCC ("Registered Contacts"). The GCC provides customer support via a specified telephone number and during specified hours. GCC employees may not always be available to assist Registered Contacts. Persons other than Registered Contacts, including non-members with Globex® access pursuant to CME Rule 574, must contact their clearing firms to make support requests.

(B) As provided in Rule 11G.04 below, neither NYMEX nor CME shall be liable for any loss resulting from any inability to communicate with the GCC. The liability of the NYMEX or CME for the negligent acts of GCC staff shall be subject to the limitations and conditions of Rule 11G.04. In no event, however, shall the NYMEX or CME be liable for the negligence of the GCC if the person claiming to have suffered a loss could have secured the support it sought from GCC through its own administrative terminal, its clearing member's terminal or an Independent Software Vendor's (hereinafter "ISV") terminal. For purposes of this Rule, a person is deemed able to take action through its own administrative terminal, a clearing member's terminal or an ISV's terminal unless such terminal was inoperative or such terminal service was interrupted at the time the GCC took action.

11G.05 Average Price Calculations by Futures Commission Merchants

(A) Eligible Accounts. An FCM, subject to compliance with the conditions specified in this rule, may report and/or confirm to customers an average of multiple execution prices and may use its own proprietary system to make such average price calculations, regardless of whether the Exchange also provides a service for average price calculations for the applicable ~~NYMEX Division~~ contract, provided:

(a) that such prices were obtained as the result of the execution of an order or series of orders to purchase or sell the same futures and/or the same option series for the same account or group of accounts; or

(b) that such prices were obtained as the result of the execution of trades to purchase or sell the same futures and/or the same option series for the FCM's proprietary account(s), provided further however, that trades for such a proprietary account are not averaged with trades for any other account.

For purposes of this rule, eligible accounts may include multiple accounts that are part of a managed account program or other common investment program. Eligible accounts may include individual non-

discretionary accounts, except that prices for non-discretionary accounts may not be averaged with prices for other non-discretionary accounts. Eligible accounts also may include individual discretionary accounts consistent with the provisions of ~~Exchange Rule~~ NYMEX Division Rule 6.41 and COMEX Division Rule 104.32.

(B) An FCM may use its own system to calculate average prices for contracts executed on the Exchange provided that the following conditions are met for all such transactions:

1. The customer has requested average price reporting;
2. Each individual trade is submitted to and cleared by the Exchange at the executed price;
3. The FCM calculates and confirms to its customers a weighted mathematical average price, as calculated pursuant to the requirements of Section (C) below;
4. The FCM possesses the records to support the calculations and the allocations to customer accounts and maintains all such records pursuant to CFTC regulations and further makes such records available for inspection by affected customers upon request; and
5. The FCM identifies each trade to which an average price is assigned as having an average price on each confirmation statement and monthly statement on which the trade is reported to the customer.

(C) Calculation of Average Price. The weighted mathematical average price shall be computed by FCMs by:

- (a) multiplying the number of contracts purchased or sold at each execution price by that price;
- (b) adding the results together; and
- (c) dividing by the total number of contracts.

For a series of orders, the average price may be computed based on the average price of each order in that series.

FCMs may confirm to customers either the actual average price or the average price rounded to the next price increment, provided however, that in confirming the average price rounded to the next price increment, the FCM must round the average price up to the next price increment for a buy order or down to the next price increment for a sell order, and must pay any residual thus created to the customer, except that any residual amount of less than one cent may be retained by the FCM.

11G.06 Price Fluctuation Limits

Notwithstanding that there will be no price limits directly applicable to any financially settled ~~NYMEX~~ contract listed by the Exchange for trading on Globex®, trading in a financially settled contract will be subject to the terms of the price fluctuation limit rule, if any, for the physically settled futures contract providing for the same or related underlying commodity.

11G.10 Customer Type Indicator Codes for Trading of NYMEX and COMEX Division Products on Globex®

Globex® Users and their Globex® User Agents shall be responsible for reporting to the Exchange appropriate CTI and indicator codes for transactions executed on Globex®. Appropriate CTI and indicator codes shall include a combination from Sections A and B below:

(A) Globex® Users who execute trades for their personal account, whether owned in whole or in part, or for an account which they control or have the right to initiate trades in, regardless of whether or not they have an ownership interest in the account, or whether they are an employee, partner, or a customer of a Clearing Member, shall designate the trades as:

(A)(1) When a Globex® User who is an Exchange Floor Member or such Globex® User's Globex® User Agent enters orders for the Globex® User's personal account, for an account the Globex® User controls, or for an account in which the Globex® User has an ownership or financial interest, the Globex® User and/or the Globex® User's Globex® User Agent shall designate the order as CTI 1.

(2) When a Globex® User who is an Exchange Floor Member or such Globex® User's Globex® User Agent enters orders for the trading account of a Member Firm or Clearing Member, the User and/or the Globex® User's Globex® User Agent shall designate the order as CTI 2. However, if such Globex® User has either an interest in or discretionary control over such Member Firm or Clearing Member trading account, the indicator codes of subdivision (1) shall apply.

(3) (a) When a Globex® User who is an Exchange Floor Member or such Globex® User's Globex® User Agent enters orders for the personal account of another Floor Member, or for an account that the Globex® User knows is controlled by another Floor Trading Member, the Globex® User and/or the Globex® User's User Agent shall designate the order as CTI 3.

(4) When a Globex® User or Globex® User Agent enters orders for any account, other than those listed in Subdivisions (1), (2), (3), such Globex® User or Globex® User Agent shall designate the order as CTI 4.

(B) Indicator Codes. All of the above CTI codes summarized in Section (A) of this Rule must be used in combination with one of the following indicator designations:

(1) C or Customer – if the account owner is not affiliated with the Clearing Member; or

(2) H or House – an account affiliated with the Clearing Member, including parent and subsidiary corporations, or principals or authorized employees, trading for their own account at the Clearing Member in which they have an ownership interest in or by whom they are employed.

(C) It shall be a Major Offense for Globex® Users or Globex® User Agents to knowingly assign false indicator codes to trades executed on Globex®.

11G.11 Settlement Prices for Contracts Traded Only on Globex®

(A) The terms of this rule shall generally govern the establishment of settlement prices for futures contracts that are listed for trading only on Globex®. For each NYMEX or COMEX financially-settled contract, such contract shall be settled pursuant to the provisions of the physically settled NYMEX or COMEX futures contract in that commodity.

(B) Following determination of the settlement prices for a contract pursuant to this rule, such prices shall be utilized in clearing and settlement in accordance with Exchange procedures and operations.

11G.14 Electronic Trading Spread Transactions and Strip Transactions

(A) This Rule shall apply to all orders for and execution of spread transactions and strip transactions on Globex®, notwithstanding anything to the contrary in NYMEX Rules 6.07, 6.07A, 6.08A, 6.08B, and 6.08D and COMEX Rules 104.38 and 104.38A which Rules shall apply exclusively to spread transactions and strip transactions on the Exchange Floor, respectively.

(B) All orders for spread transactions (intercommodity, intra-commodity, cracks, options or futures-options) and strip transactions on such Exchange electronic trading systems shall be made at a stated price differential.

(C) Triggering of Stops. Transactions executed by the Globex® matching system as legs as a result of orders for spread transactions or strip transactions shall set off stops in the affected contract. Transactions executed by the Globex® matching System as spread transactions or strip transactions shall not set off stops in the affected contract, but shall set off stops with respect to the spread transaction or the strip transaction, as applicable.

11G.15 Standard Forms of Orders for Trading of NYMEX and COMEX Products on Globex®

Until further notice from NYMEX, the following order types for NYMEX and COMEX products will be supported by the Globex® matching host:

Market Order: Market Orders at CME are implemented using a "Market With Protection" approach. Unlike a conventional "Market" order, where customers are at risk of having their orders filled at extreme prices, "Market With Protection" allows the order to be filled within a pre-defined range of prices (Protected Range). The Protected Range is typically the current best bid or offer, plus/minus 50% of the "no bust range" for that instrument. If the entire order cannot be filled within the protected range, the unfilled quantity becomes a Limit Order at the limit of the Protected Range.

Stop Order: Stop Orders at CME are implemented using a "Stop With Protection" approach. Unlike a conventional "Stop" order, where customers are at risk of having their orders filled at extreme prices, "Stop With Protection" allows the order to be filled within a pre-defined range of prices (Protected Range). A Stop With Protection order is triggered when the order's trigger price is traded on the market. The order then enters the order book as a Limit Order with the limit price equal to the trigger price plus/minus the pre-defined Protected Range. The Protected Range is typically the trigger price, plus/minus 50% of the "no bust range" for that instrument. The order will be executed at all price levels between the trigger price and the limit price. If the order is not fully executed, the remaining quantity of the order is left in the system at the limit price. A Buy Stop order must have a trigger price greater than the last traded price for the instrument. A Sell Stop order must have a trigger price lower than the last traded price.

Limit : A Limit Order allows the buyer to define the maximum price to pay and the seller the minimum price to sell (the Limit Price). A Limit Order remains on the book until the order is either executed, cancelled, or expires. Any portion of the order that can immediately be matched is executed as soon as the order is entered.

Market-Limit: A Market-Limit Order immediately executes as much as possible at the best available price. If the entire quantity cannot be filled at the best opposite price, the unfilled quantity remains in the market as a Limit Order at that opposite price.

Stop-Limit Order: A Stop Limit order is triggered when the order's trigger price is traded on the market. The order then enters the order book as a Limit Order with the specified limit price. The order will be executed at all price levels between the trigger price and the limit price. If the order is not fully executed, the remaining quantity of the order is left in the system at the limit price. A Buy Stop Limit order must have a trigger price greater than the last traded price for the instrument. A Sell Stop Limit order must have trigger price lower than the last traded price.

The CME iLink® interface supports only the order types available at the Globex® matching host. However, third-party Globex® front-end applications generally provide additional order types. For a comprehensive list of order types supported by your front-end trading application, please contact your broker or software vendor.

Order Qualifiers

The following order qualifiers are supported by the Globex® matching host:

Day,
 Session,
 Good 'Til Canceled (GTC),
 Good 'Til Date (GTD),
 Fill Or Kill (FOK),
 Fill And Kill (FAK).

The CME iLink® interface supports only the order qualifiers available at the Globex® matching host. However, third-party Globex® front-end applications generally provide additional order qualifiers. For a comprehensive list of order qualifiers supported by your front-end trading application, please contact your broker or software vendor.

Maximum Show Quantity

The Globex® matching host offers users the capability to specify whether or not the entire quantity of an order is exposed to the market by optionally defining a "maximum show" quantity. By using this qualifier, a user can expose the order to the market gradually. For example, a user may place an order with a quantity of 1000. If a "maximum show" quantity of 100 is also specified, no more than 100 lots are exposed to the market at any time.

Please note that this capability is accessible only through iLink® V2.0 and the Globex Trader® application.

| Functionality | Globex Host & iLink | Globex Trader Front-end |
|--------------------------|---------------------|-------------------------|
| Order Types | | |
| Market | YES | YES |
| Stop | YES | YES |
| Market-Limit | YES | YES |
| Market W/Discretion Pts. | NO | NO |

| | | |
|---|----------------|-----|
| Stop W/Discretion Pts. | NO | NO |
| Limit | YES | YES |
| Market-Limit If Touched (MIT) | NO | YES |
| Market-Limit If Touched (MIT) W/Discretion Pts. | NO | NO |
| Stop Limit | YES | YES |
| Order Cancels Order (OCO) | NO | YES |
| Market On Open (MOO) | NO | NO |
| Market On Close (MOC) | NO | NO |
| Hit/Take | NO | YES |
| | (must use FAK) | |

Order Qualifiers

| | | |
|--------------------------|-----|-----|
| Session | YES | YES |
| Day | YES | YES |
| Good 'Til Date (GTD) | YES | YES |
| Good 'Til Canceled (GTC) | YES | YES |
| Fill Or Kill (FOK) | NO | YES |
| Fill And Kill (FAK) | YES | YES |
| Max Show/Display | YES | YES |

(C) A Globex® User or Globex® User Agent may accept orders on a "Not Held" basis provided that they have received prior written permission from the ultimate customer and retained such written documentation with their required records. A Globex® User shall not be responsible to the customer for the execution or failure to execute such order on Globex®. However, a claim may be asserted against the Globex® User by the customer and/or the Compliance Department, if the execution or the failure thereof, was done fraudulently or by willful misconduct.

Nothing in this rule shall be construed as a limitation of the Exchange's disciplinary authority.

11G.17 Surrender of Trading Records for Examination

Each Globex® User that is a NYMEX or COMEX Member or Member Firm shall be required to submit for examination trading records maintained in the manner required by the Exchange at such times and in such manner as requested by the President or other designated Exchange employee.

11G.19 Permissible Pre-Execution Discussions

Firms may engage in pre-execution discussions with regard to transactions executed on Globex® in NYMEX and COMEX Products where the firm wishes to be assured that a counter-party will take the opposite side of the order. One party may agree in advance with another party that the first party will take the opposite side of the first party's order, under the following circumstances:

(A) Customers must consent to allow pre-execution discussions with other market participants.

(B) Globex® Users who are solicited to participate in an electronic transaction through pre-execution discussions shall not (i) disclose to another Globex® User the details of such discussions; or (ii) enter an

order through a NYMEX electronic trading system to take advantage of information conveyed during such discussions unless the Globex® User has agreed during the pre-execution discussions to participate in the transaction in accordance with this Rule and the order is entered to implement that agreement.

(C) A period of at least five (5) seconds shall elapse between entry of the two orders during which the order first entered is resting in the market.

(D) Orders entered pursuant to this Rule must be entered in accordance with the provisions of Section C, if applicable.

11G.20 Reporting and Record keeping Requirements for Electronic Trading Systems

(A) All customer order memoranda reflecting orders for execution during the Globex® shall be retained in accordance with NYMEX Rule 8.50 and COMEX Rule 104.97.

(B) All information entered into Globex® shall be retained by the Globex® User as provided by the Exchange for the time period set forth in NYMEX Rule 8.50 and COMEX Rule 104.97.

11G.21 Exchange of Futures for Physicals and Exchange of Futures for Swaps

The exchange of futures for physicals for contracts listed for trading on Globex® shall be governed by the provisions of NYMEX Rule 6.21 or COMEX Rule 104.36, and the exchange of futures for swaps for contracts listed for trading on Globex® shall be governed by the provisions of NYMEX Rule 6.21A or COMEX Rule 104.36A/B.

11G.22 Exchange of NYMEX or COMEX miNY Futures for, or in Connection with, NYMEX or COMEX Futures Transactions

(A) General Requirements. An exchange of futures for, or in connection with, mini futures (EFM) consists of two discrete, but related transactions; a purchase (sale) transaction in a NYMEX or a COMEX miNY futures contract and a sale (purchase) transaction in the related NYMEX futures contract. At the time such transaction is effected, the buyer (seller) of the NYMEX or COMEX miNY shall be the seller (buyer) of the related NYMEX or COMEX futures contract in the ratio designated by the Board of Directors.

(B) Final Deadline for Transactions. An EFM involving an expiring NYMEX or a COMEX miNY futures contract month is permitted at any time up to and must be reported to the Exchange by the close of trading on the expiration date of the NYMEX or COMEX miNY ~~Crude and Natural Gas~~ contracts.

(C) Contract Month and Quantity. An EFM transaction may only be effected for the same contract month in both of the applicable NYMEX or a COMEX futures contracts. The quantity of contracts to be exchanged in the EFM transaction must be consistent with the size ratio then in effect between the applicable NYMEX or a COMEX miNY NYMEX futures contract listed for trading on NYMEX ClearPort® Trading and the regular size NYMEX or COMEX contract listed for trading at NYMEX

(D) Transaction Price. An EFM transaction may be transacted at the settlement price for the Physical NYMEX or COMEX futures contract for the trading session in which the EFM transaction was reported to the Exchange, or at a differential to the settlement price for the Physical NYMEX or COMEX futures

contract for the trading session ~~preceding the session~~ in which the EFM transaction was reported to the Exchange.

(E) Floor Reporting Requirements and Deadlines. A report of each EFM transaction must be given and notice thereof must be posted on the Floor of the Exchange. The report of an EFM transaction must be given on the Floor prior to the end of the trading session on the day that the agreement was made, or if such agreement was made after the close of trading, then during the trading session on the next business day.

(F) Clearing. EFM transactions shall be cleared through the Exchange in accordance with normal procedures, shall be clearly identified and marked in the manner provided by the Exchange, and shall be recorded by the Exchange and by the Clearing Members involved.

11G.27 Closing Range and Close

The closing range for each NYMEX and each COMEX Product that is listed for trading only on Globex® for each day of trading, including the closing range on the final day of trading in such contract listed for trading only on such system, shall include all trades made within the last (10) ten minutes of the applicable trading session for such contract and all bids higher than as well as offers lower than any trade made within such periods.

11G.29 Disciplinary Status of Non-Members Trading NYMEX or COMEX Products on Globex®

A Globex® User or a Globex® User Agent who is neither a Member nor a Member Firm shall not be subject to the disciplinary jurisdiction of the Exchange except as provided in Rule 8.99B (Summary Procedures for Denial of Access to NYMEX ClearPort® Trading or to Globex®).

From Chapter 104 COMEX Division Floor Rules

104.01 Trading Days

The business day for the COMEX Division shall be as described in NYMEX Division Rule 6.00, Exchange Business Day

~~(a) Except as otherwise provided in subsection (b), the Exchange shall be open for business daily except on Saturdays, Sundays and such holidays as from time to time may be determined by the Board.~~

~~(b) The Eurotop 100 futures contracts and futures options and the Eurotop 300 futures contracts and futures options shall not be open for trading on days when less than 75 of the Eurotop 100 Stock Index's component stocks are open for trading on their respective exchanges.~~

104.02 Hours for Trading

The Board shall establish the hours for trading in commodities on the Exchange for each trading session. All such trading shall take place within the prescribed hours.

(a) Opening and Closing. The hours for floor trading of futures contracts and futures options on each day in which the futures contracts and futures options are open for business shall be known as Regular Trading Hours (RTH) and shall be as follows:

Futures or Options Contract Opening / Closing

Gold 8:20 A.M. - 1:30 P.M.

Silver 8:25 A.M. - 1:25 P.M.

Copper 8:10 A.M. - 1:00 P.M.

Aluminum 7:50 A.M. - 1:15 P.M.

Gold Futures Options 8:20 A.M. - 1:30 P.M.

Silver Futures Options 8:25 A.M. - 1:25 P.M.

Copper Futures Options 8:10 A.M. - 1:00 P.M.

Aluminum Futures Options 7:50 A.M. - 1:15 P.M.

(b) ~~Warning Bells Signal. A warning bell~~ An audible warning signal shall be sounded one minute prior to the time designated for the opening of trading in each futures contract and futures option, and one minute prior to the time designated for the closing of trading in each futures contract and futures option.

(c) Post-Settlement Session.

After the close of trading in all futures and options contracts traded on the COMEX Division, but in no event less than five minutes after the close of Gold, five minutes after the close of Silver, ten minutes after the close of Aluminum, or fifteen minutes after the close of Copper, as applicable, a post-settlement session shall commence and all applicable contracts shall resume trading for a period of three (3) minutes (the "Session"), subject to the following conditions:

(A) Trading in all futures contract months as well as option contract months will be permitted;

(B) Futures and corresponding options will commence trading during the Session at the same time;

(C) There shall be no maximum limits on the trading range in a Session and all trades occurring during the Session for a particular contract month of a futures contract shall be executed openly and competitively;

(D) During the Session, Floor Members, Floor Brokers and their customers may participate in the same manner as futures trading occurring during the regular RTH session, except that any order submitted during the RTH session, including but not limited to, resting orders such as stop orders, limit orders and good until cancelled (GTC) orders, will be deemed to have expired as of the end of the RTH for purposes of this Session. Accordingly, in the event that a market participant with such an expired order seeks to participate in the Session, a new order must be submitted;

(E) Prices for trades executed during the Session shall be reported on public ticker services as current market prices and trades executed during the Session shall not be considered in determining any settlement price; and

(F) Floor Members executing trades during the Session shall mark a line across their trading cards prior to the entry of a Session trade.

104.03 [RESERVED] ~~Trading Outside Trading Hours~~

~~Except as permitted by Rules 104.36 ("Exchanges for Physicals"), 104.37 ("Ex-Pits and Transfers of Existing Futures Contracts or Futures Options"), and 104.39 ("Exercise of Futures Options"), no futures contracts or futures options may be traded or transferred, and no agreements to trade or transfer futures contracts or futures options may be entered into, before the opening or after the closing of trading in any futures contract or futures option as set forth in Rule 104.02 ("Hours for Trading").~~

104.04 Conduct of Opening Calls

(a) ~~When and Where Conducted.~~ An opening call for the purchase and sale of each futures contract shall be held in each ring designated for trading of each futures contract on each day on which the Exchange is open for business at the time prescribed for the opening of trading in such futures contract. If the COMEX Governors Committee determines that trading in any futures contract will be facilitated thereby, it may order that such opening call shall not be held and that trading in all delivery months for such futures contract shall open simultaneously at the hour prescribed for the opening of trading in such futures contract.

(b) ~~Person Conducting Opening Call.~~ Opening calls shall be conducted by such employees of the Exchange as may be designated by the President. Any disputes on the opening call shall be resolved immediately by the Floor Committee.

(c) ~~Procedures for Opening Call.~~ In conducting an opening call, each delivery month shall be called separately, commencing with the nearest delivery month and continuing until the last delivery month prescribed by the By-Laws and Rules has been called.

RESOLUTION

~~10 Call for Copper.~~

~~(a) A call for the purchase and sale of copper for future delivery shall be held in the Exchange room on each business day at the hour prescribed for the opening of trading in copper as provided in Rule 104.02 and shall be conducted by a person designated by the President. The call shall be for the delivery months as prescribed in Rule 111.12. Each such delivery month shall be called separately commencing with the nearest delivery month and shall continue until the last of such delivery months within the period specified in Rule 111.12 has been called, after which the call shall stand adjourned.~~

~~(b) Notwithstanding the provisions of Rule 104.04.10(a), if the COMEX Governors Committee determines that trading in copper will be facilitated thereby, the COMEX Governors Committee, by resolution, may order trading in all such delivery months for copper to open at the same time at the hour prescribed for the opening of trading in copper as provided in Rule 104.02. In the event of such an order by the COMEX Governors Committee, there shall be no opening call in copper.~~

~~NOTE: By resolution dated May 14, 1986, the Board of Governors has determined that trading in copper futures contracts will be facilitated by the simultaneous opening of trading in all delivery months; that no opening call for the purchase and sale of copper for future delivery shall be held; and that trading in all delivery months for copper futures contracts shall open concurrently.~~

104.06 Opening and Closing Periods

The RTH opening period shall be the first one minute of open outcry trading in all futures contracts and futures options, and shall commence and end by the ringing of a bell sounding of an audible signal at the

time set forth for the opening of trading in each futures contract or futures options in Rule 104.02 ("Hours for Trading"). The closing period shall be the last one minute of trading in all futures contracts and futures options, and shall commence and end by the ~~ringing of a bell~~ sounding of an audible signal at the time set forth for the closing of trading in each futures contract or futures options in Rule 104.02 ("Hours for Trading"). On expiration day for a spot month contract on Globex® trading in the spot month contract will cease at the close of RTH.

104.07 Forms of Orders

(a) Venue. Any order received on the trading floor shall be deemed an order for execution by open outcry in the relevant trading ring unless the customer, upon placing the order, indicates that the order shall be for execution on another COMEX trading venue.

(1) When a customer places an order for execution on another COMEX trading venue, the venue must be designated on the order ticket.

(2) A Trading Member may accept from a customer discretion to choose the COMEX trading venue for execution of an order provided that:

(A) the Trading Member shall not be held to a best execution standard in exercising that discretion, however, a claim may be asserted against the Trading Member by the customer and/or the Compliance Department, if the execution or the failure thereof, was done fraudulently or by willful misconduct, and

(B) any order accepted with discretion as to execution venue shall be designated as such with the notation "DV" on the order ticket.

(3) Orders as described in paragraphs (b) through (i) of this rule, shall be executable based solely on events occurring in the venue for which the order was placed. Floor brokers shall not execute any order electronically or cause any order to be executed electronically unless the customer has specifically requested electronic execution or given venue discretion.

~~(a)-(b)~~ Market Order. A market order is an order to buy or sell a stated number of futures contracts or futures options at the price obtainable immediately after the order is transmitted to the ring.

~~(b)-(c)~~ Limit Order. A limit order is an order to buy or sell a stated number of futures contracts or futures options at a price not less favorable than that specified in the order.

~~(c)-(d)~~ Specified Time Order. A specified time order is an order to buy or sell a stated number of futures contracts or futures options which, if not executed within the time specified in the order, automatically expires. A specified time order includes, without limitation, a fill or kill order, an order executable only on the opening, during the opening call or during the close.

~~(d)-(e)~~ Stop Order.

(1) A stop order is an order to buy or sell a stated number of futures contracts or futures options at the market when the market reaches a specified price. A stop order to buy becomes a market order when a transaction in the futures contract or futures option occurs at or above the specified price after the order is received in the ring or, if so specified by the customer, when a bid for the futures contract or futures option is made at, or above, the specified price. A stop order to sell becomes a market order when a transaction in the futures contract or futures option occurs at or below the specified price after the order is

received in the ring or, if so specified by the customer, when an offer for the futures contract or futures option is made at or below the specified price.

(2) A stop limit order to buy becomes a limit order when after the order is received in the ring, a transaction in the futures contract or futures option occurs at or above the specified price or, if so specified by the customer, when a bid for the futures contract or futures option is made at or above the specified price. A stop limit order to sell becomes a limit order executable at the limit price when after the order is received in the ring a transaction in the futures contract or futures option occurs at or below the stop price or, if so specified by the customer, when an offer for the futures contract or futures option is made at or below the specified price.

~~(e)~~ (f) Market-If-Touched Order. A market-if-touched order is the same as a limit order except: (1) A market-if-touched order to buy becomes a market order when, after the order is received in the ring, a transaction in the futures contract or futures option occurs at or below the specified price; (2) A market-if-touched order to sell becomes a market order when, after the order is received in the ring, a transaction in the futures contract or futures option occurs at or above the specified price.

~~(f)~~ (g) Time and Price Discretion Order. A time and price discretion order is a market order or a limit order to buy or sell a stated number of futures contracts or futures options in which a floor member is to exercise his own judgment and discretion in determining the price and the time of execution of the order.

~~(g)~~ (h) Orders for Execution on Opening.

(i) An order which is to be executed on the opening (or the cancellation of such an order) must be given to a floor broker not later than two minutes prior to the opening call for the commodity in question.

(ii) If such an order (or cancellation) is received by a floor broker later than two minutes prior to the opening call for the commodity in question, the order need not be accepted by the broker.

(iii) If such an order (or cancellation) is accepted by the broker, the broker may not be held responsible for its execution on the opening.

(iv) If such an "opening only" order (or cancellation) is received and accepted by the broker less than two minutes prior to the opening for the commodity in question and such order (or cancellation) is not executed on the opening, the order or cancellation expires by its terms.

~~(h)~~ (i) Orders for Execution on the Close.

(i) The "close" for each commodity ~~shall be deemed to be a period fixed from time to time by the Governors Committee, beginning with a warning bell and ending with the cessation of trading at the time prescribed in the Rules for the respective commodities.~~ shall be the period indicated in Rule 104.06 above.

(ii) An order given to a floor broker at any time within a period of (5) minutes before the warning ~~bell~~ signal initiating the "close" for the commodity in question (or the cancellation during such period of an order previously given) shall be subject to this Rule as it applies to orders for execution on the "close".

(iii) An order for execution on the "close" (or the cancellation of such an order) must be given to a floor broker at least give (5) minutes prior to the warning ~~bell~~ signal initiating the "close" for the commodity in question.

(iv) If an order for execution on the "close" (or the cancellation of such an order (is received by a floor broker later than five (5) minutes prior to the warning ~~bell~~ signal, the order need not be accepted by the broker; but if accepted, the broker may not be held responsible if the order is not executed during the closing period.

(v) An order (or cancellation of an order) which is not executed during the closing period shall expire by its terms.

104.08 Not Held Orders

A member may accept and attempt to execute any order in a form not specified in Rule 104.07 ("Forms of Orders"), but a member attempting to execute such order ~~in a ring~~ shall not be held responsible for his failure to execute such order. No member or member firm may assert a claim against any floor member for his failure to execute such order.

(a) Not Held Orders for Execution on the Trading Floor:

(1) A Trading Member who obtains the agreement of his customer or his customer's agent prior to acceptance of any order from such customer, that such order will be accepted only on a "Hot Held" basis, shall not be responsible to the customer for the execution or failure to execute such order. However, a claim may be asserted against the Trading Member by the customer and/or the Compliance Department, if the execution or the failure thereof, was done fraudulently or by willful misconduct.

(2) Any order accepted on a "Not Held" basis must be so designated on the customer order ticket at the time of receipt of such order.

(b) Not Held Orders for Execution on ~~NYMEX ACCESS Globex®. An Electronic Trader or a NYMEX ACCESS® Operator~~ A Globex® User may accept orders on a "Not Held" basis provided that they have received prior written permission from the ultimate customer.

(c) Nothing in this Rule shall be construed as a limitation of the Exchange's disciplinary authority.

104.17 Acceptance of Orders

(a) Entry of Orders. A floor broker or trader or clerk thereof shall not accept or execute or cause to be executed any order to buy or sell a contract for the future delivery of a commodity or option on such a contract originating on the floor of the ~~Exchange~~ COMEX Division from a person who is not a member of the ~~Exchange~~ COMEX Division. Floor members may receive orders ~~in the ring~~ on the trading floor for execution only from members, member firms, and duly authorized clerks properly functioning in such capacity.

(b) Order Identification. No floor broker or trader or clerk thereof shall accept or execute or cause to be executed any order, including an order from another member, to buy or sell a contract for future delivery of a commodity or option on such a contract unless the name of the clearing member which will clear the transaction and the customer's account number at such clearing firm, are identified in the order.

(c) Clearing Member Authorization. No floor broker, trader or clerk thereof shall accept orders or execute or cause to be executed trades for another person unless the floor member has previously received written authorization (or verbal authorization, if followed by written authorization within three business days) to

execute orders for such person or for such account from the clearing member through which the trade is to be cleared.

(d) Acceptance of Futures Option Orders. A member or member firm shall not accept any order to buy or sell a futures option from any futures commission merchant unless the futures commission merchant is (i) a member of the Exchange; (ii) a member of a national futures association registered under the Act and providing for the regulation of the futures option activities of its members; or (iii) trading for its proprietary account.

(e) Exception for Option Permits and Memberships. Notwithstanding the provisions of subparagraphs (a) and (b) of this Rule 104.17, persons who hold Option Memberships ("Option Members"), shall be permitted to directly communicate to floor brokers, traders and clerks thereof but not execute (and such floor brokers, traders and clerks thereof are permitted to accept and execute) orders to purchase and sell futures contracts for the account of such Option Member but only to the extent that such orders represent bona fide hedging of the positions of such Option Members in such futures options as the Option Member is authorized to trade on the Exchange; provided, further, that under no circumstances may positions obtained by an Option Member by direct communication to Floor Brokers, traders or clerks thereof exceed: (i) a number of short futures contracts equal to the sum of the number of long future call options plus the number of short future put options held by the Option Member; and (ii) a number of long futures contracts equal to the sum of the number of short future call options plus the number of long future put options held by the Option Member.

(f) No Option Member may receive brokerage for any trade which an Option Member is not authorized to execute on the Exchange.

RESOLUTION

~~10 Notwithstanding the provisions of Rule 104.17(e), for the period beginning on October 19, 1992 through September 7, 1993, Option Members shall be permitted to directly communicate to floor brokers, traders and clerks thereof (and such floor brokers, traders, and clerks thereof are permitted to accept and execute) orders to purchase and sell platinum and palladium futures without any limitation as to the nature of the transactions and at the equivalent fee rate applicable to full members through September 7, 1993.~~

104.18 Recognition Trading

(a) Acceptance by Recognition. Except to the extent otherwise permitted or required by the By-Laws and Rules, any bid or offer to buy or sell a futures contract or futures option by open outcry shall be deemed to be accepted by such member or members as may be acknowledged by the bidding or offering member.

(b) Simultaneous Acceptances. In the event the willingness of two or more members to accept all or any part of a bid or offer simultaneously comes to the attention of a bidding or offering member in open-outcry trading, the bidding or offering member may recognize any one or more of such accepting members and may apportion the volume of the bid or offer among such accepting members in such manner as the bidding or offering member deems appropriate.

104.19 Price at Which Acceptance Binding; Parties to Contract

(a) Acceptance Binding. Acceptance of offers or of parts of offers to buy or sell shall be binding upon the acceptor at the price named by the member offering.

(b) Parties to contract for future delivery. No contract for the future delivery of a commodity or an option contract traded by open-outcry in or on the Exchange shall be recognized, acknowledged or enforced by the Exchange, or any Committee or Officer thereof, unless both parties thereto shall be members of the Exchange provided, however, that members shall offer their contracts for clearance to the Clearinghouse, operating in conjunction with the Exchange, and the Clearinghouse shall become by substitution a party thereto in place of a member, and thereupon such Clearinghouse shall become subject to the obligation thereof and entitled to all the rights and privileges of a member in holding, fulfilling or disposing thereof.

104.23 Solicitation of Orders

No member or member firm that has received on the trading floor an order to buy or sell a futures contract or futures option by open outcry shall attempt to obtain the other side by soliciting a selling order or buying order until such order has been bid or offered in the ring. In the case of an order eligible for execution on Globex®, solicitation of a matching order may not occur unless the order has been first offered or bid on Globex® for at least five (5) seconds, or is otherwise eligible for pre-execution discussion in accordance with Exchange Rule 11G.19.

Rule 104.36, Exchanges for Physicals

(a) General Rule. An exchange of physical commodities for futures contracts ("EFP") shall be permitted by arrangement between members in accordance with the requirements of this Rule.

(b) Parties to an EFP. An EFP may be consummated between two parties if one of the parties is the buyer of the physical commodity and the seller of the futures contract, and the other party is the seller of the physical commodity and the buyer of the futures contract.

(c) Simultaneity of Transfer. The purchase and sale of the futures contract shall be simultaneous with the sale and purchase of an equal quantity of the physical commodity.

(d) Ownership of Commodity. The seller of the physical commodity must have either possession or a contractual right to future possession of the physical commodity at the time of entry into the EFP. ~~In the case of an EFP transacted at any time in which the Exchange offers trading in its contracts during the business day, the transfer of the physical commodity by means of the EFP may not be made in connection with an offsetting cash commodity transaction.~~

(e) Equivalent Physical Commodities. For purposes of this Rule, the physical commodity (1) need not comply with the specifications therefore contained in the futures contract which is being exchanged, but need only be substantially the economic equivalent thereof, and (2) may not be a futures contract or a contract for future delivery traded on a "designated contract market" as that term is used and defined under the Act.

(f) Price of EFP. An EFP may be transacted at such prices as is mutually agreed upon by the two parties to the EFP.

(g) Reports and Recordkeeping.

(1) Each EFP entered into during regular trading hours shall be reported to an Exchange employee designated for that purpose by no later than the close of regular trading hours on the day the transaction is effected. Each EFP entered into after the close of regular trading hours and prior to the opening on the next business day shall be reported to an Exchange employee designated for that purpose by no later than 10:00 a.m. on such next business day. Such report shall specify the seller of the futures contract and the number of contracts involved in the EFP.

(2) Each order ticket prepared by a member or member firm in connection with an EFP transaction and all trade data submitted to the Exchange to match and clear an EFP shall specially identify the transaction as an EFP.

(3) (A) Each member or member firm which has entered into an EFP for its own account shall maintain full and complete documentation (including, but not limited to, the time of entry) of the EFP and any cash commodity transaction related thereto.

(B) Each member or member firm which has reported or cleared an EFP on behalf of a customer shall provide to the Exchange such documentation of an EFP and any cash commodity transaction related thereto as the Exchange may request.

~~Interpretation of the Governors Committee of Commodity Exchange, Inc. Regarding Exchanges of Futures for Physicals ("EFP")~~

~~Essential Elements and Other Indicia of a Bona Fide EFP~~

~~The Board has identified the following as essential elements of an EFP transaction:~~

~~(1) There must be both a cash transaction and a futures transaction, which transactions must be integrally related.~~

~~(2) The cash commodity contract must provide for a transfer of ownership of the cash commodity to the cash buyer upon performance of the terms of the contract, with delivery to take place within a reasonable period of time thereafter in accordance with prevailing cash market practice (subject, of course, to the buyer's obligation to pay for the commodity). Actual delivery need not take place should the selling party offset that obligation by other means.~~

~~(3) There must be separate parties to the EFP—that is, the accounts involved must have different beneficial ownership or be under separate control.~~

~~The Governors Committee has resolved that every EFP transacted on COMEX must satisfy the above-identified essential elements. In addition, the Governors Committee has developed a more inclusive list of other indicia to be considered, in conjunction with Rule 104.36, as a basis for determining whether the essential elements of an EFP have been satisfied in evaluating the bona fides of a particular transaction:~~

~~(a) The degree of price correlation between the cash component and the futures contract.~~

~~(b) The prices of the futures and cash legs of the EFP and their relation to the relevant prices in either market.~~

~~(c) Whether the seller has possession, the right to possession, or the right to future possession of the cash commodity prior to the EFP.~~

The criteria for a bona fide EFP were taken verbatim from The Report on Exchanges of Futures for Physicals, at pages 146-147, 150-151, 192-193 and 195-196. Any reader interested in an expanded explanation of these criteria should see The Report.

(d) The cash seller's ability to perform on his delivery obligation in the absence of prior possession of the cash commodity (i.e., the cash seller's access to the cash market).

(e) Whether the cash buyer acquires title to the cash commodity.

Ownership of the Physical Commodity

Questions have arisen as to the permissibility of an EFP involving the transfer of a physical commodity in connection with the consummation of an additional cash commodity transaction offsetting the cash commodity component of the EFP.

No EFP which is linked to entry into a second, offsetting cash trade may be transacted during COMEX's business hours at any time that COMEX offers trading in its contracts, unless trading in a market is halted, such as during a physical emergency.

Recordkeeping

COMEX requires that members and member firms who participate in and clear EFPs keep full and complete records of all such transactions, and also be in a position to provide records for any EFP transaction which they clear on a give-up basis. Complete records have been deemed to consist of the following documents, or their equivalents, if applicable: account statements, sales invoices, delivery instructions to a depository or dealer, confirmations from a depository or dealer showing delivery and receipt of payment, and, if available, physical inventory records.

The Exchange also requires that members and member firms keep and/or be in a position to provide full and complete records of any and all cash commodity transactions executed in combination with an EFP which effect the offset of the cash commodity component of the EFP.

With respect both to the EFP as well as any related cash commodities transaction, records must include documentation of the time at which the parties entered into each such transaction.

104.46 Reporting Requirements—See Chapter 9, including Rules 9.33 and 9.34 and Appendix A.

(a) General. For purposes of position computation and reporting, if any person holds or has a financial interest of 10% or more in or controls the trading (directly or indirectly, by power of attorney or otherwise) in multiple accounts, the positions carried in all such accounts shall be aggregated and considered as a single position. Similarly, positions carried in the accounts of two or more persons acting pursuant to an express or implied agreement or understanding as if the accounts were held by a single person shall be aggregated and considered as a single position. The accounts in which all such positions are carried are referred to herein as "affiliated accounts."

(b) Reporting Levels. All positions which equal or exceed the levels prescribed below ("reportable positions") shall be reported to the Exchange:

of contracts long or short in any Future one contract month

Gold 200

Silver 150

Copper 25

Aluminum 25

of any one type of contract (long call, short call, long put, Option short put) in any one expiration

Gold 200

Silver 150

Copper 25

(c) Required Reports.

(1) After a position in an account or affiliated accounts reaches the prescribed reporting level, the clearing member carrying the account(s) shall promptly file with the Exchange a facsimile of the CFTC Form 102 prepared for the account(s). If this form identifies the account(s) numerically, the same numerical account identifier shall be used on all position reports relating to the account(s).

(2) A clearing member shall file a report with the Exchange for each business day on which a position is reportable as well as for the business day on which the position falls below the reporting level. Each such report shall separately identify the reportable position as well as the position in all delivery months of futures contracts for that commodity and in all expirations of options for that commodity, by strike price. In addition, for each reportable customer, each such report shall also include all EFP and EFS transactions cleared for each business day. The reporting of EFP and EFS transactions within the Large Trader file format shall identify the reportable customer who executed the EFP/EFS and the kind and quantity of the futures cleared. During the delivery month of a futures contract, the report also shall specify the number of delivery notices stopped and the number of delivery notices issued as of the close of trading on the business day covered by the report. The Exchange also may require, from time to time, the report of additional information, such as traders' intentions, ownership of stocks, as well as other relevant market data.

(3) An omnibus account shall file a report with the Exchange for each business day on which a reportable position is carried in any constituent account or affiliated accounts within the omnibus account as well as for the business day on which the position falls below the reporting level. A foreign broker shall file such reports for reportable positions in any account it maintains, whether proprietary or for customers. Each report filed by an omnibus account or a foreign broker shall include all of the information described in paragraph (2) above. If an omnibus account or foreign broker fails to file such reports when and as required, the clearing member at which the accounts are cleared shall be required to submit the information with respect to the constituent accounts.

(4) All reports required to be submitted pursuant to section (b) of this Rule shall be filed via computer transmission or by such other means as may be authorized by the Director of Market Surveillance by 8:00 a.m. on the next business day following the period covered by the report.

(d) **Special Call.** Upon special call by the Board or the Control Committee, or the Director of Market Surveillance at the request of either the Board or the Control Committee, a member or member firm shall furnish to the Director of Market Surveillance within the time period and in the form specified in such special call, the identity of the beneficial owner or owners of positions in an account or affiliated accounts and such other information relating to the account(s) as may be requested. In the event a member or member firm fails to supply the information when and as requested by the special call, the Board or, upon request and delegation by the Board, the Control Committee may require the member or member firm to liquidate, in whole or in part, the positions in the account or affiliated accounts, or to take such other actions, within such time period and upon such terms, with respect to such account(s) as the Board or the Control Committee may deem necessary or desirable.

104.47 Position Limits

See Exchange Rules, Chapter 9, including Rules 9.27 through 9.32 and Appendix A.

(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 provided 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.

104.48 Position Accountability

See Exchange Rules, Chapter 9, including Rule 9.26 and Appendix A.

The owner or controller of a net futures equivalent position in gold, silver or aluminum which reaches or exceeds 6,000 contracts and in the case of copper exceeds 5,000 contracts shall:

(1) promptly supply to the Exchange such information as the Exchange may request pertaining to the nature and size of the position, the trading strategy employed with respect to the position, and the position owner's or controller's hedging requirements, provided, however, that if the position owner or controller fails to supply such information as and when requested, the President or his designee may request, and the Board or, upon delegation, the Control Committee may order the reduction of such position;

(2) agree, upon request by the Board or the Control Committee, not to increase the position owned or controlled as of the time the request was received; and

(3) agree to comply with any prospective limit prescribed by the Board or the Control Committee which exceeds the size of the position owned or controlled.

104.72—Specialist Market Maker Program

(A) **Definitions.** For purposes of this Rule 104.72, the capitalized terms in this Rule shall have the meanings provided in this Section (A):

(1) **Contract Development Fee.** The term "Contract Development Fee" ("CDF") shall mean the payment to be made to an SMM by the Exchange pursuant to Section (G) of this Rule 104.72 or as otherwise established by the Board and so provided in the SMM Agreement.

(2) **Designated SMM Trader.** The term "Designated SMM Trader" shall mean a person or persons who shall be authorized by the SMM to fulfill the SMM's functions in a contract(s) to which the SMM has been appointed and to act on the SMM's behalf on the floor of the Exchange in accordance with this Rule 104.72. Designated SMM Traders may include SMM employees and also may include Specialist Floor Brokers.

(3) **Order Book Official.** The term "Order Book Official" ("OBO") shall mean the SMM whenever the SMM is acting in the capacity of the OBO as provided in Section (F) of this Rule 104.72.

(4) **Official Product Order Book.** The term "Official Product Order Book" (or "OB") shall mean the order book of limit orders to be maintained by the OBO. Any order containing any level of discretion shall not be considered a limit order. Eligible limit orders for placement in the OB may include limit orders from other Exchange Members as well as public customer (non-Member) orders and may include spread as well as outright orders.

(5) SMM Agreement. The term "SMM Agreement" shall mean a written agreement between the Exchange and a Specialist Market Maker that has been negotiated between the SMM and the Specialist Review Committee and approved by the Board of Directors. This agreement, among other things, shall set forth the rights and obligations of the parties, including, but not limited to, the maximum spread between bids and offers, the maximum trade size that the SMM is obligated to fill in any one trade at such fixed spread, the Contract Development Fee, and the duration of the SMM Agreement.

(6) Specialist Floor Broker. The term "Specialist Floor Broker" shall mean a Floor Member who is not an employee of the SMM but instead is a registered floor broker who has contracted with the SMM to serve as an authorized Designated SMM Trader on behalf of the SMM in one or more contracts.

(7) Specialist Market Maker. The term "Specialist Market Maker" ("SMM") shall mean an Exchange Member, a Member Firm upon whom membership privileges have been conferred, or other entity that has floor trading privileges and that has been designated by the Exchange to make a market in one or more specified Exchange contracts under terms and conditions established by the Exchange and subject to an SMM Agreement between such Member, Member Firm or other entity and the Exchange.

(8) Specialist Review Committee. The term "Specialist Review Committee" ("SRC") shall mean a committee appointed by the Board of Directors to review applications for appointment as an SMM and to monitor and supervise the SMM program as provided in Section (D) of this Rule 104.72, except that the Executive Committee of the Board of Directors may serve as the Specialist Review Committee during the interim period until the Board has made appointments to this committee.

B. SMM Application Process

(1) The Exchange shall consider applications for SMM appointment that have been submitted by Exchange Members, Member Firms and other qualified entities. Eligibility to apply for appointment as an SMM is limited to Exchange Members, Member Firms and other qualified entities that have working capital in excess of \$500,000.

(2) Prospective SMMs must demonstrate their capacity to satisfy the obligations inherent in maintaining an orderly market. In particular, prospective SMM applicants must demonstrate the capability to provide multiple qualified personnel with the capability to perform the defined scope of service.

C. Eligible SMM Markets and Other Trading Permits

(1) SMM appointments may be made in contracts as established by the Board of Directors. The Board of Directors, at its discretion, may make an SMM appointment in any new contract or in any contract with low trading volume.

(2) For each contract that is to receive an SMM facility, the Board shall appoint only one SMM. For any contract for which an SMM has been appointed, the Exchange shall make available to such SMM special SMM trading permit(s) that would allow the SMM to make a market in such contract without incurring the cost of dedicating a membership for use in that designated ring.

D. Specialist Review Committee Functions

(1) The SMM program shall be supervised by the Specialist Review Committee. The SRC shall review applications for appointment as an SMM and shall make recommendations to the Board of Directors regarding such applications. In reviewing each such applicant, the SRC shall consider the following

eligibility factors: financial resources; operational capability; trading experience; history of regulatory affairs; and ability and willingness to promote NYMEX as a marketplace.

~~(2) The SRC shall negotiate the terms of the SMM Agreement with an SMM. Such terms shall include a maximum bid/offer spread for the contract months specified in the SMM Agreement, with a specified limit on the minimum number of contracts that the SMM shall be obligated to fill at such fixed bid/ask spread in any one trade. In complying with this obligation for a particular price, the SMM may fill a bid or offer, as applicable, at the fixed spread with one or more limit orders in the OB at that price and/or non limit orders, with a trade for the SMM's proprietary account, or with a combination of limit order(s), non limit orders and trading for the SMM's proprietary account. The bid/ask spread and the limit on the number of contracts to be filled by the SMM at such a spread may be set for each contract month, and the SMM Agreement may provide that there shall be no such fixed bid/ask spreads and volume obligations for certain contract months. For any contract month for which such a fixed bid/ask spread and a minimum trade size obligation have been established, separate obligations shall be applicable for trading during abnormal market conditions.~~

~~(3) The SRC shall continuously monitor the performance of the SMM and shall provide the Board with quarterly performance and financial reviews. The SRC shall have discretion in determining whether an SMM has complied with the rules of the SMM program. In the event that the Specialist Review Committee determines that an SMM has failed to comply with such rules, it shall recommend to the Board that appropriate action be taken.~~

~~E. Execution of SMM Obligations~~

~~(1) The SMM and the SFB may divide the rights and obligations of the SMM in any manner they choose, provided that the SMM shall remain principally liable to the Exchange for the execution of all obligations and duties.~~

~~(2) For purposes of this Rule 104.72, the SMM Program is described in terms of rights and obligations of the SMM with the understanding that such rights and obligations are subject to being assigned between the SMM and the SFB, with the consent of the SRC.~~

~~F. SMM Obligations and Privileges~~

~~(1) Maintenance of Continuous Physical Presence in the Trading Ring for an Appointed Contract. For each contract for which an SMM has been appointed, the SMM shall at all times exercise reasonable best efforts to maintain a continuous physical presence throughout the regular trading session within the specialist area designated by the Exchange for that contract.~~

~~(2) Maintenance of an Orderly Market. Absent extraordinary events and circumstances, an SMM appointed in one or more contracts shall continuously maintain on the floor of the Exchange throughout the regular trading session a two-sided market in the contract(s) for which the SMM has been appointed. For each contract month, such a market shall consist of a current bid and a current offer that shall differ by no more than the fixed maximum spread set forth for such contract month in the SMM Agreement. All such bids and offers shall be, and shall be understood to be, for the minimum number of contracts set forth in the SMM Agreement, and at a given bid or offer the SMM shall be obligated to satisfy all bids and offers in the ring at the same price up to the maximum number of contracts for any one trade specified in the SMM Agreement. In complying with this obligation for a particular price, the SMM may fill a bid or offer, as applicable, at the fixed spread with one or more limit orders in the OB and/or non-limit orders at that price, with a trade for the SMM's proprietary account, or with a combination of limit order(s), non limit orders and trading for the SMM's proprietary account provided that the SMM may~~

deduct, from the minimum quantity specified in the SMM Agreement, the aggregate quantity of contracts being bid or offered by anyone else in the ring at that time and at the SMM's bid or ask price, as applicable. The SMM shall not be required to execute exchanges of futures for physicals.

(3) Maintenance of the OB and Execution of Orders in OB.

(a) The SMM shall be responsible for maintaining the OB of limit orders in the contract(s) for which the SMM has been appointed. A customer may elect to have a limit order placed with the SMM, acting in the capacity of the OBO, and also may elect to have a non limit order placed with the SMM. The OBO shall accept any limit order presented to the OBO for placement in the OB; the SMM may accept other non-limit orders at the SMM's discretion. The SMM shall exercise due diligence in the execution of the terms of all orders that have been accepted for execution.

(b) The OBO may only execute written orders. All orders presented to the OBO for placement in the OB must be prepared on a multi-~~ply~~ ticket. A Member or Member Firm forwarding the order to the OBO for placement in the OB shall be responsible if the terms of the written order ticket as presented to the OBO are incorrect. The OBO shall be responsible for recording identically in the OB the terms of an order as such terms appear on the written order ticket that is presented to the OBO by a Member or Member Firm. For each order placed in the OB that has been forwarded to the OBO by a Member or Member Firm, the OBO also shall record the identification of such Member or Member Firm.

(c) At each price for which limit orders are held in the OB, the OBO shall be obligated to fill orders held in the OB on a time entered priority basis. The OBO shall be required to maintain a time stamped record of all orders received by the OBO, which shall be time stamped upon receipt by the OBO using a time clock provided by the Exchange and located in the specialist area of the applicable trading ring.

(4) Disclosure of Depth of OB. In response to Members' inquiries or upon request by a clerk making inquiry on behalf of a Floor Member or a Member Firm, the OBO may, but will not be obligated, to disclose the prices, quantities and contract months of the limit orders held in the OB ("OB depth"), provided however, that if the OBO elects to disclose the OB depth to one Member or Member Firm, the OBO shall exercise its reasonable best efforts to simultaneously announce the OB depth to the trading ring. The OBO shall not, however, disclose the identity of the customer or Member that has submitted a limit order to the OBO. Moreover, notwithstanding the foregoing, an SFB that is acting in the capacity of an OBO shall not disclose, absent instructions by the SMM to that effect, the terms of any limit orders held in the OB to any person or entity, including any person or entity employed by or affiliated with such SFB, other than the SMM.

(5) Priority Rights of the OBO and Related Priority Rights of the SMM in Trades Involving the OB.

(a) Priority Rights of the OBO. The OBO, when bidding or offering on behalf of limit orders in the OB, shall be entitled to and shall at all times exercise a right of priority, to the extent specified by the Board, rounded down to the nearest whole lot on fractions, over all other participants in the trading ring, including the SMM trading for its propriety account, for trades that take place on the OBO's bid or offer for the OB ("OBO Customer Priority"). In exercising this OBO Customer Priority, the OBO shall be entitled to the percentage specified by the Board of the aggregate quantity of all transactions executed in the ring at that time and price, up to a complete fill of the executable limit orders in the OB, whichever is less.

This priority shall be applicable to all bidding or offering made by the OBO on behalf of limit orders in the OB, including bidding or offering undertaken as part of a cross trade. Therefore, any exercise by the

SMM of its right of priority to participate in a cross trade opposite the OB shall in no way limit or restrict the exercise of the OBO Customer Priority.

(b) ~~Related Priority Right of the SMM in Trades Involving the OB. Whenever the OBO exercises the OBO Customer Priority, the SMM, when trading for the SMM's proprietary account, at the SMM's option, may exercise a right of priority to participate in trades on the same side of the market as the OB. This right of priority shall permit the SMM to participate, up to a maximum percentage specified by the Board, rounded down to the nearest whole lot on fractions, of the maximum quantity obtainable by executable limit orders at that time under the OB Customer Priority percentage then in effect. In the event of the SMM's exercise of this priority, such maximum quantity to be obtained by executable limit orders in the OB shall be reduced by the quantity obtained by the SMM pursuant to its exercise of the priority.~~

(6) ~~Trades Involving the OB and SMM Priority Rights for Trading in the SMM's Proprietary Account.~~

(a) ~~Priority Rights Following Initiation by SMM of a Cross Against the OB. The SMM may trade for the SMM's proprietary account against the OB. For each instance when the SMM, acting in the capacity of trading for the SMM's proprietary account, should seek to trade for such proprietary account opposite an order in the OB, the SMM, in conformance with Rule 104.24, shall first bid and offer to the trading ring the quantity and price of the contract(s) to be purchased and sold and neither such bid nor such offer are accepted. If one or more Floor Members should respond to such bid or offer, the SMM, at the SMM's option, may exercise a right of priority to the extent specified by the Board, rounded down to the nearest whole lot on fractions, of the contract(s) traded opposite the OB in response to the SMM's simultaneous bid and offer.~~

(7) ~~Other SMM Priority Rights. The SMM, when bidding or offering for the SMM's proprietary account may, in its sole discretion, exercise a right of priority to participate in a maximum of up to a percentage specified by the Board, rounded down to the nearest whole lot on fractions, of contracts transacted at the SMM's bid or offer price, regardless of the time at which the SMM joined the bid or offer, provided, however, that the SMM shall not be accorded such priority in the event the SMM joins the trading crowd's bid or offer after such bid or offer has been accepted by the trading crowd.~~

(8) ~~Compliance with Exchange Rules. The SMM and any persons acting as the SMM's Designated SMM Trader shall be bound by and comply with all Exchange Rules, except that to the extent that rules that are explicitly applicable to the SMM program are inconsistent with other Exchange Rules, the SMM rule provisions shall take precedence.~~

(9) ~~Applicability of Broker Association Provisions. As provided in COMEX Rule 3.10 and for purposes of the registration requirements of that Rule, an OBO shall not be deemed to be a part of a broker association. Accordingly, the OBO, in executing a customer limit order placed in the OB by a registered floor broker, may competitively execute such order through bids and offers from the trading ring, including a bid or offer, as applicable, from the floor broker who placed such order with the OBO and is trading for that broker's proprietary account.~~

(10) ~~Maintenance of Working Capital. As a continuing condition for appointment as an SMM, at all times an SMM shall maintain at least \$500,000 in working capital. The SMM shall promptly inform the Specialist Review Committee and the Exchange's Compliance Department within forty eight hours of any material change in financial or operational conditions or in personnel.~~

(11) ~~Clearing Rates. The SMM shall receive Member rates on trades executed for the SMM's proprietary account.~~

G. Contract Execution Fee, Contract Development Fee and Review of Priority Rights

~~(1) The Exchange shall pay the SMM on a periodic basis a Contract Execution Fee, which shall be calculated at an amount established by the Board per side for every futures or option side, as applicable, executed by the SMM and cleared in NYMEX's clearing records as executed in transactions identified, for purposes of compliance with CFTC Regulation 2§1.35(e), by indicator Type "3" or "4". As provided by the SMM Agreement, the Exchange may also pay other sums to the SMM or waive Exchange fees otherwise owed by the SMM.~~

~~(2) Contract Development Fee. The Exchange shall provide the SMM with a Contract Development Fee ("CDF") as an incentive to the SMM to facilitate the successful expansion in trading volume in the contract(s) to which the SMM has been appointed. The amount of the CDF payment may involve a sliding scale based upon an amount established by the Board multiplied by the number of contracts executed in the ring and cleared during the preceding quarter that were recorded in the Exchange's clearing records as executed in transactions identified, for purposes of compliance with Commission Regulation 2§1.35(e), by the customer type indicator (4) and further identified by Exchange clearing records as transactions executed for a public (non-Exchange Member) customer ("4C"). Except as otherwise provided in the SMM Agreement, the payments shall occur over a five year period, commencing with the initiation of the SMM facility for a particular contract.~~

~~(3) From time to time, the Specialist Review Committee may review trading activity, open interest and trading volume in a contract with an SMM facility and may recommend to the Board that the privileges relating to trading priority provided in Section (F) above as established by the Board should be diminished or terminated for that SMM, except as otherwise provided in the SMM Agreement.~~

H. Disclosure Requirement

~~No Member Firm that is a Futures Commission Merchant may allow any customer maintaining an account at that firm to trade in a COMEX contract that has been designated with a SMM facility, unless such customer is first provided with a Specialist Market Maker Customer Information Statement in a form approved by the Exchange.~~

I. Modifications

~~The Board, in its discretion and subject to CFTC approval, may on a case by case basis for each SMM alter, restrict, limit, condition, modify or waive any provision of this Rule 104.72.~~

104.723 - 104.79 Reserved

104.82 Submission of Trade Data

(a) General Requirements. Floor Trading Members shall be responsible for reporting the following data for each trade executed on the Exchange:

- (1) all information recorded on a floor member's trading card pursuant to Rule 104.80(b) and order tickets pursuant to Rule 104.81(a) and (b);
- (2) an appropriate customer type indicator (CTI) and indicator code as described in section (b) below;
- (3) the clearing member and account in which the trade will clear; and
- (4) such other information as the Exchange may require to match and/or clear a trade.

(b) Customer Type Indicator Codes. Floor Trading Members shall be responsible for reporting to the Exchange on the On-line Trade Entry System (“OLTE”), appropriate CTI and indicator codes for transactions executed on the Exchange Floor. Authorized Terminal Users shall be responsible for reporting to the Exchange and on ~~NYMEX ACCESS~~ Globex®, appropriate CTI and indicator codes for transactions executed on ~~NYMEX ACCESS~~ Globex®. Appropriate CTI and indicator codes shall include a combination from sections (1) and (2) below:

(1) CTI Codes:

(A) When a Floor Trading Member executes trades for his/her personal account, for an account he/she controls, or for an account he/she has an ownership or financial interest, he/she shall designate the trades as CTI 1.

(B) When a Floor Trading Member or Authorized Terminal User executes trades for the trading account of a Member Firm or Clearing Member, he/she shall designate the trades as CTI 2. However, if the executing Floor Trading Member has either an interest in or discretionary control over such Member Firm or Clearing Member trading account, the indicator codes of subdivision (1) shall apply.

(C) (i) When a Floor Trading Member executes trades for the personal account of another Floor Trading Member, or for an account that the Floor Trading Member knows is controlled by another Floor Trading Member, he/she shall designate the trades as CTI 3.

(ii) When an Authorized Terminal User executes trades on ~~NYMEX ACCESS~~ Globex® for the personal account of a Floor Trading Member, or for an account that the Authorized Terminal User knows is controlled by a Floor Trading Member, he/she shall designate such orders as CTI 3.

(D) When a Floor Trading Member or Authorized Terminal User executes trades for any account, other than those listed in subdivision (A), (B), (C), he/she shall designate the trades as CTI 4.

(2) Indicator Codes. All of the above CTI codes summarized in section (1) of this Rule must be used in combination with one of the following indicator designations:

(A) C or Customer – if the account owner is not affiliated with the Clearing Member; or

(B) H or House – an account affiliated with the Clearing Member, including parent and subsidiary corporations, or Principals or authorized employees, trading for their own account at the Clearing Member in which they have an ownership interest in or by whom they are employed.

It shall be a Major Offense for Floor Trading Members or Authorized Terminal Users to knowingly assign false indicator codes to trades executed on the Exchange Floor or on ~~NYMEX ACCESS~~ Globex®.

(c) Methods of Submission. All data shall be submitted by the methods prescribed below:

(1) A floor member shall submit trade data either to the clearing member intended to clear the trade or to the Exchange. Submission to a clearing member shall be made by delivery of the top copy (the original) of the floor member's trading card or order ticket to the clearing member; submission of data to the Exchange shall be made by means of on-line trade entry (OLTE).

(2) If a floor member submits trade data through a clearing member, the clearing member shall transmit the pertinent trade data to the Exchange by means of OLTE ~~or computer to computer telecommunication interface (CTC)~~.

(d) Submission Schedule.

(1) All data shall be submitted in accordance with the following schedule:

| Trade Execution Bracket Period | Floor Member Delivery of Cards/Tickets to Clearing Member | Floor Member / Clearing Member Input to Exchange |
|---|--|---|
| 5:30 a.m. through 6:00 a.m. | 6:15 a.m. | 6:30 a.m. |
| 6:01 a.m. through 6:30 a.m. | 6:45 a.m. | 7:00 a.m. |
| 6:31 a.m. through 7:00 a.m. | 7:15 a.m. | 7:30 a.m. |
| 7:01 a.m. through 7:30 a.m. | 7:45 a.m. | 8:00 a.m. |
| 7:31 a.m. through 8:00 a.m. | 8:15 a.m. | 8:30 a.m. |
| 8:01 a.m. through 8:30 a.m. | 8:45 a.m. | 9:00 a.m. |
| 8:31 a.m. through 9:00 a.m. | 9:15 a.m. | 9:30 a.m. |
| 9:01 a.m. through 9:30 a.m. | 9:45 a.m. | 10:00 a.m. |
| 9:31 a.m. through 10:00 a.m. | 10:15 a.m. | 10:30 a.m. |
| 10:01 a.m. through 10:30 a.m. | 10:45 a.m. | 11:00 a.m. |
| 10:31 a.m. through 11:00 a.m. | 11:15 a.m. | 11:30 a.m. |
| 11:01 a.m. through 11:30 a.m. | 11:45 a.m. | 12:00 noon |
| 11:31 a.m. through 12:00 noon | 12:15 p.m. | 12:30 p.m. |
| 12:01 p.m. through 12:30 p.m. | 12:45 p.m. | 1:00 p.m. |
| 12:31 p.m. through 1:00 p.m. | 1:15 p.m. | 1:30 p.m. |
| 1:01 p.m. through 1:30 p.m. | 1:45 p.m. | 2:00 p.m. |
| 1:31 p.m. through 2:00 p.m. | 2:15 p.m. | 2:30 p.m. |
| 2:01 p.m. through 2:30 p.m. | 2:45 p.m. | 3:00 p.m. |
| 2:31 p.m. through 3:00 p.m. | 3:15 p.m. | 3:30 p.m. |
| 3:01 p.m. through 3:30 p.m. | 3:45 p.m. | 4:00 p.m. |
| 3:31 p.m. through 4:00 p.m. | 4:15 p.m. | 4:30 p.m. |
| 4:01 p.m. through 4:30 p.m. | 4:45 p.m. | 5:00 p.m. |
| 4:31 p.m. through 5:00 p.m. | 5:15 p.m. | 5:30 p.m. |

Post Settlement Session

3 minutes

15 minutes after
end of session

30 minutes after
end of session

To assure the orderly and efficient operations of the Exchange, the Operations Committee or the President of the Exchange may modify the schedule for transmission of data, upon notification of all members. Failure to comply with a directive modifying this schedule shall subject a floor member or clearing member to the sanctions applicable to violations of the submission schedule set forth above.

(e) Corrections. The Exchange shall establish the deadline by which corrections may be submitted on each business day.

(f) Backup Forms of Submission. Each clearing member submitting trade data to the Exchange must have available facilities to submit trade data via magnetic tape or diskette in case of CTC or OLTE failure, unless alternative arrangements are approved by the Exchange. Such magnetic tape or diskette shall be generated concurrent with the storage and processing of trade data for OLTE or CTC submission by the clearing member's computer system. The clearing member shall then submit the magnetic tape or diskette in accordance with the schedule set forth in paragraph (c) of this Rule in the event of OLTE ~~or CTC~~ failure.

(g) Trade Allocation.

(1) If a member or member firm receives an order or series of orders which, if filled, either partially or fully, will require allocation of trades between or among multiple accounts, the member or member firm may input the data pertaining to the trade executions into a specially designated allocation account to facilitate trade check-out and data processing of such trades.

(2) For purposes of compliance with the input schedule set forth in section (c) of this Rule, if the member or member firm has not received specific allocation instructions prior to trade execution or the volume of orders required to be allocated is such that the member or member firm cannot input all data elements needed to separately identify each account for which trades were executed before the prescribed submission deadline, the member or member firm shall transmit the trade to the Exchange using an aggregate account identifier that will distinguish the trades placed in the allocation account from all other trades for which data is being submitted.

(3) After initial input of data for the allocation account, the member or member firm shall input specific account identification for each contract purchased or sold. Specific account identification for each contract purchased or sold must be entered as soon as practicable but in no event later than the day of execution, prior to the end of the correction period, as described in paragraph (c) above.

(4) If the member or member firm has not allocated a trade or trades held in an allocation account by the end of the correction period on the day of trade execution, the trade or trades shall be placed in the account of the executing floor member at his PCM.

(h) Average Price Data Input. Following execution of a trade intended to be reported and confirmed as an average price trade in accordance with Rule 104.90 ("Average Price Trades"), the trade shall be input at the trade execution price with a designation as an average price trade. A separate aggregate identifier shall be used to distinguish each set of trades to be averaged.

104.84 Verification of Trade Data

(a) Confirmation of Trades. Each party to a transaction on the floor of the Exchange or representative thereof shall confirm promptly with the opposite floor broker or floor trader or representative thereof the price, quantity and delivery month of each futures contract and the price, quantity, futures option series and type of each futures option which is the subject of such transaction.

(b) Identification of Clearing Member. At any time subsequent to the consummation of a trade, a floor member may require the other party to the trade to declare the name of the clearing member through whom the trade will be cleared. If the other party fails to declare the name of his clearing member within

ten (10) minutes, the floor member shall report such failure to the Floor Committee and immediately close out the contract. Any loss or damages sustained by reason of closing out a contract pursuant to this Rule shall be paid by the defaulting party.

(c) Availability of Members and Clerks. Each clearing member and each floor member shall provide a sufficient number of clerks, not less than one, authorized and registered with the Exchange, to check trades, verify and submit trade data, and resolve unmatched and unreconciled trades throughout the day (which shall include the evening corrections period) to insure that the general business of the members shall not be unduly hindered or delayed. Any floor member who executed trades on a business day must have such a representative available on the COMEX trading floor on the next business day one hour prior to the opening of the earliest contract market which that floor member trades (~~except in the case of Eurotop 100 stock index contracts, in which instance, the member or his representative must be available on the floor five minutes before market opening~~) and each clearing member shall have such a representative available on the COMEX trading floor by 7:15 a.m. each business day, or at such time as may be determined by the Operations Committee, to assist in the resolution of any problems, including those involving unmatched trades, which have arisen in connection with the prior day's submission of the floor member's trade data. All members shall be present or available while their trades of the day are being verified and submitted and shall have representatives present with a copy of all relevant and necessary trade documentation including their trading card and order tickets.

104.90 Average Price Trades

(a) A member or member firm may report and/or confirm to customers an average of multiple execution prices, provided that such prices were obtained as the result of the execution of an order or series of orders to purchase or sell the same futures and/or the same option series for the same account or group of accounts. A member or member firm may also employ average pricing for trades executed for the member's or member firm's proprietary account, provided that the trades are not averaged with trades executed by the member or member firm for any other account without the express written authorization of the account holder.

For purposes of this Rule, eligible accounts may include multiple accounts that are part of a managed account program or other common investment program. Eligible accounts may include individual non-discretionary accounts, except that prices for non-discretionary accounts may not be averaged with prices for other non-discretionary accounts. Eligible accounts also may include individual discretionary accounts.

Average Price Calculation Performed by the Exchange for Trades Executed at Open Outcry

(b) Each member or member firm that accepts an order intended to be priced at the average price must designate the order as an average price order (APO) on each office and floor order ticket relating to the trade at the time of acceptance. Following trade execution, the confirmation statement and monthly statement on which the trade is reported shall clearly indicate that the price assigned to that trade is an average price.

(c) For purposes of this section (c), the average price shall be computed by the Exchange by multiplying each execution price by the number of contracts purchased or sold at that price divided by the total number of contracts filled of the particular order or series of orders. Either the actual average price or the average price rounded to the next price may be confirmed. If the average price is to be rounded, it must be rounded up to the next price increment for a buy order or down to the next price increment for a sell

order. The case residual value created by the rounding process shall be paid or credited to the account holder. Any residual amount of less than one cent may be retained by the clearing member.

Average Price Calculation Performed by the Futures Commission Merchant

(d) As an alternative to utilization of the average price calculation service provided by the Exchange, an FCM may use its own proprietary system to make average price calculations for applicable transactions pursuant to the conditions specified below:

1. The customer has requested average price reporting;
2. Each individual trade is submitted to and cleared by the Exchange at the executed price;
3. The FCM calculates and confirms to its customers a weighted mathematical average price, as calculated pursuant to the requirements of section (e) below;
4. The FCM possesses the records to support the calculations and the allocations to customer accounts and maintains all such records pursuant to CFTC regulations and further makes such records available for inspection by affected customers upon request; and
5. The FCM identifies each trade to which an average price is assigned as having an average price on each confirmation statement and monthly statement on which the trade is reported to the customer.

(e) Calculation of Average Price

The weighted mathematical average price shall be computed by FCMs by:

- (a) multiplying the number of contracts purchased or sold at each execution price by that price;
- (b) adding the results together; and
- (c) dividing by the total number of contracts.

For a series of orders, the average price may be computed based on the average price of each order in that series.

FCMs may confirm to customers either the actual average price or the average price rounded to the next price increment, provided however, that in confirming the average price rounded to the next price increment, the FCM must round the average price up to the next price increment for a buy order or down to the next price increment for a sell order, and must pay any residual thus created to the customer, except that any residual amount of less than one cent may be retained by the FCM.

COMEX Rule 104.91, Futures Settlement Prices

(a) Active Month. The settlement price of the most active futures contract month shall be the average (rounded off to the nearest price tick) of the highest and lowest prices of all outright transactions executed on the trading floor by open outcry for that delivery month ~~of the trades reported~~ during the closing period, except as otherwise provided in this Rule or in Rule 104.93 ("Use of Discretion to Establish Settlement Price").

(b) **In All Other Delivery Months.** The settlement prices shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Settlement Price Committee with: (a) greater weight given to spreads executed at open outcry later in the trading day in large volumes, and (b) lesser weight given to (i) spreads traded at open outcry in lesser volumes, (ii) spread bids and offers actively represented on the trading floor later in the trading day, and (iii) spread transactions, bids and offers from the trading floor from earlier in the trading day.

(c) **Exception - Matched Order Price.** The settlement price for the nearest copper futures delivery month (spot) shall be the matched order price established pursuant to Rule 104.42 ("Matched Orders"). If the only trades entered into during the closing period were effected through matching, the contract will be settled by the respective subcommittee of the Settlement Price Committee in accordance with sections (a) and (b) of this Rule 104.91.

COMEX Rule 104.92, Option Settlement Premiums

The settlement premiums for option series shall be determined upon the following procedures:

(A) With the exception of the day of expiration, option settlement premiums shall be determined in accordance with the following:

1. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium shall be based on, but not limit to, (i) the price traded, (ii) volume traded, (iii) the underlying futures price, (iv) the bid/offer spread on the underlying future, and (v) the length of time between trade and the close of trading.

2. For call (put) options whose strike price is less (greater) than the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium will be determined consistent with the corresponding put (call) using an appropriate option pricing model.

3. Bids and offers for twenty-five (25) lots or more that have been posted at least ten (10) minutes before the close and throughout the closing range shall be considered for settlement, unless the Settlement Price Committee ("Committee") determines that it is unreasonable to do so given spread relationships at the close of trading. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid offer if requested by the Committee.

4. The Committee shall endeavor to use its best efforts to maintain appropriate price spread relationships between and within listed months using an appropriate options model.

(B) On the day of option expiration, the option settlement premium shall be determined in accordance with the following:

1. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract the option settlement premium shall be zero.

2. For call (put) options whose strike price is less (greater) than the settlement price of the underlying futures contract, the option settlement premium shall be determined on the basis of the absolute difference between the futures price and the strike price.

(C) If, using the procedures specified in Subsections (A) or (B) above, a settlement premium being considered for a particular option would not be consistent with (1) trades made during the closing range in other option series on the same underlying future, (2) the settlement price of the underlying future, or (3) market information that is either known by Committee members or brought to their attention by Exchange officials (including but not limited to either open outcry trading or electronic trading) then the Committee may establish a settlement premium that is consistent with other trades, the settlement price of the underlying future, or market information. In all instances in which the Committee establishes a settlement premium pursuant to this Section (C), the Committee shall prepare a written record setting forth the basis for such settlement premium.

(D) After settlements for all contract months for a particular contract are completed by the Settlement Price Committee, there will be a ten minute period where members can object to a particular settlement. Following this ten minute period, members may no longer make objections to the settlement premiums.

COMEX Rule 104.93, Use of Discretion to Establish Settlement Price

If a subcommittee of the Settlement Price Committee believes that any settlement price arrived at through the application of the formula specified in Rule 104.91 is inappropriate, it shall settle the futures contracts at a price it judges to be proper, in their best judgment at a level consistent with such other transactions or market information, including but not limited to, information from open outcry and electronic trading venues. ~~Such price must be within the permissible trading limits for that day.~~ For any price established by use of the subcommittee's discretion, the subcommittee shall prepare a written explanation of its reasons for deviating from the price which would have been established by application of Rule 104.91.

COMEX Rule 104.94, Settlement Price Procedures for Copper Contracts

(A)(i) The term "base month" shall mean the March, May, July, September and December delivery months; (ii) the term "most active month" with respect to this Rule and the Rules in Chapters 111 and 117 shall mean the base month that is not the current delivery month, with the greatest reported open interest on the official COMEX daily open interest report.

(B) The settlement price for the current delivery month shall be comprised of the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions ~~that occur in the closing range~~ including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range combined with the weighted average price of all spreads executed by open outcry between the current delivery month and the most active month during the final 30 minutes of trading. If no outright transactions occur in the closing range or no spreads are executed during the final 30 minutes of trading in the current delivery month, or, if in the opinion of the Settlement Committee, the settlement price determined is inconsistent with value indicated by other spread relationships established during the last thirty minutes of trading, the spread relationships occurring within the last thirty minutes, between and among contract months from the current delivery month to the most active month, shall be utilized by the Settlement Committee in their best judgment to establish a settlement price at a level consistent with such other transactions or market information, including but not limited to information from open outcry and electronic trading venues, with greater weight given to the weighted average of executed spread trades, and lesser weight given to the implied midpoint of spread bids and offers actively represented during the final 30 minute period of trading. In

such event, the Committee shall prepare a written record of the basis for any settlement price so established.

(C) The settlement price for the most active month shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. If no outright transactions occur in the closing range of the most active month, the settlement price shall be the last trade price from either the open outcry or the electronic venue, unless during the closing range a bid higher or offer lower than the last trade price is made. In such event, such higher bid or lower offer shall be the settlement price.

(D) In all other delivery months, the settlement prices shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Settlement Price Committee with: (a) greater weight given to spreads executed at open outcry later in the trading day in large volumes, and (b) lesser weight given to (i) spreads traded at open outcry in lesser volumes, (ii) spread bids and offers actively represented at open outcry later in the trading day, and (iii) spread transactions, bids and offers at open outcry from earlier in the trading day. Notwithstanding the foregoing, no settlement price shall be established that would be lower than the best outright bid, or higher than the best outright offer, that: (a) was for at least 20 contracts, and (b) had been posted with the Exchange and had remained available for execution and unfilled for the final 30 minutes of trading of that trading day.

(E) If any settlement price, determined pursuant to Paragraph (D), is inconsistent with transactions that occurred during the closing range for other delivery months of the same futures contract (including but not limited to either open outcry trading or electronic trading) or with other market information known to the Committee, the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event, the Committee shall prepare a written record of the basis for any settlement price so established.

COMEX Rule 104.94A, Settlement Price Procedures for Aluminum Contracts

(A) For aluminum futures contracts, the settlement price for the current delivery month and the delivery month with the greatest reported open interest on the official COMEX daily open interest report that is not the current delivery month shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions in that delivery month ~~which occur in the closing range~~, including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. If no outright transactions occur in the closing range of either the current delivery month and the delivery month with the greatest reported open interest on the official COMEX daily open interest report that is not the current delivery month, the settlement price for the applicable month shall be the last trade price from either the open outcry or electronic venue, unless during the closing period a bid higher or offer lower than the last trade price is made. In such event, such higher bid or lower offer shall be the settlement price.

(B) In all other delivery months for such futures contracts, the settlement price shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Settlement Price Committee with: (a) greater weight given to spreads executed at open outcry late in the trading day in large volumes, and (b) lesser weight given to (i) spreads traded at open outcry in lesser volumes, (ii) spread bid and offers actively represented at open outcry late in the trading day, (iii) spread transactions, bids and offers at open outcry from earlier in the trading day. Notwithstanding the foregoing no settlement price shall be established that would be lower than the best

outright bid, or higher than the best outright offer, that: (a) was at least for 20 contracts, and (b) had been posted with the Exchange and had remained available for execution and unfilled for the final 30 minutes of trading of that trading day.

(C) If any settlement price, determined pursuant to Paragraph (A) or (B), is inconsistent with transactions that occurred during the closing ~~rate~~ range for other delivery months of the same futures contract (including, but not limited to, either open outcry trading or electronic trading) or with other market information known to the Committee (including but not limited to either open outcry trading or electronic trading), the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event, the Committee shall prepare a written record of the basis for any settlement price so established.