



## Clearing Rules

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**Note: Important Note**

**As of May 16, 2003, this chapter governs the processing and clearing of COMEX Division transactions as well as NYMEX Division transactions. In addition, as of May 16, 2003, all bylaws and rules of the COMEX Clearing Association are no longer in force or effect.**

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**9.00 Liability of Exchange**

(A) A Clearing House shall be maintained and operated under the Bylaws and Rules of the Exchange, for the purpose of clearing all trading of members on, or subject to the Bylaws and Rules of, the Exchange.

(B) Wherever these Rules create a right in favor of the Clearing House, or impose a liability on the Clearing House, it shall be construed as the right or liability of the Exchange and shall be enforceable by or against the Exchange.

(C) The Exchange, the Clearing House, and the Clearing House Committee assume no liability in any clearing transactions, so far as fraudulent warehouse receipts are concerned, or the failure of insolvency of banks, or depositories.

(D) In connection with the clearing of certain over-the-counter transactions in Exchange-designated pari-mutuel auctions, the Exchange may determine to facilitate the clearing of such transactions by establishing only for operational purposes one or more Exchange clearing member numbers and/or processing accounts. Notwithstanding the establishment of any clearing member number or account, the Exchange shall not be subject to the duties, obligations and requirements imposed upon Clearing Members under Exchange bylaws and rules.

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**9.01 Direction of the Clearing House**

The general direction of the Clearing House and its operation shall be under the jurisdiction of the Clearing House Committee, subject to the approval of the Board. The President of the Exchange shall be Manager of the Clearing House, subject to the direction of the Clearing House Committee.

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**9.02 Membership in the Clearing House**

(A) Any Member Firm may, with the approval of the Clearing House Committee and the Board, become a member of the Clearing House in the manner hereinafter set forth, provided:

(1) that the applicant must have such business integrity and financial responsibility as to justify the Clearing House in assuming the risk involved in the clearing of the applicant's trades;

(2) that a bona fide office can be continuously maintained in the City of New York and a bank account maintained with a bank in the City of New York acceptable to the President. A Clearing Member not having an office in the City of New York may satisfy the condition respecting a bona fide business office in the City of New York by: A) designating another Clearing Member or member of the Exchange having a bona fide business office in the City of New York to act for it in all matters requiring action by a Clearing Member under the Bylaws and Rules of the Exchange and to receive on its behalf all notices or other communication including legal process in connection with Clearing House and/or Exchange transactions, such designation to be in form satisfactory to the Clearing House Committee; or B) presenting a plan for a "remote clearing solution" to the Clearing House Committee and having such plan approved by the Clearing House Committee. The Clearing House Committee may adopt rules, subject to the approval of the Board, respecting the nature of the office to be maintained in New York by a Clearing Member as well as the conditions to be complied with by a Clearing Member not having an office in the City of New York.

The Board, upon receipt of any application and report from the Clearing House Committee, shall either approve or disapprove the applicant and, if approved, the applicant shall be admitted to membership in the Clearing House. If disapproved the applicant shall not be permitted to file another application for a period of one year from the date of notice of disapproval.

(B) The application shall be accompanied by a written document guaranteeing to the Clearing House the assumption of responsibility for any and all futures trades made in the name of the applicant or his qualified floor traders and accepted by the Clearing House. Any qualified member or members so approved can be guaranteed by only one Clearing Member but may act as a floor broker for other Clearing Members.

(C) Said guaranteeing document, in the case of a partnership or corporation, shall be signed by the Exchange member of the partnership or corporation.

(D) In the case of a corporation, the guaranteeing document shall be accompanied by a copy of the resolution of the Board of the corporation authorizing the guarantee required by this Rule duly certified by the Secretary or the principal officer of the corporation.

(E) Any lawfully formed and conducted cooperative association of producers, within the meaning of the Commodity Exchange Act, which is engaged in any cash commodity business, having adequate financial responsibility may become a member of the Clearing House on the same terms and conditions as a corporation.

(F) Applications for membership in the Clearing House shall be accompanied by the applicant's balance sheet prepared and certified to by a certified public accountant and sworn to as to the substantial accuracy by the applicant whose signature shall be acknowledged. The balance sheet of the applicant shall show a working capital (as defined in Rule §9.23) of not less than \$5,000,000.

(G) Members of the Clearing House shall have the privilege of designating members of the Exchange as qualified floor traders in addition to their regular representative members. Such qualified floor traders must be guaranteed by the Clearing Member and subject to the approval of the Clearing House Committee.

(H) All applicants prior to their election to membership in the Clearing House shall sign a statement that if approved, they will observe and be bound by the Clearing Rules of the Exchange and all amendments subsequently made thereto.

(I) The President shall refer to the Clearing House Committee for its consideration the application and supporting documents after the President is satisfied that the financial requirements have been met.

(J) Where a Clearing Member guarantees more than six qualified floor traders he shall have, in addition to the capital required for each Clearing Member, an additional \$50,000.00 of working capital for the guarantee of each qualified floor trader in excess of six.

(K)(1) A corporation that is wholly owned by one member may be granted membership in the Clearing House provided that the provisions of this subsection have been met. The corporation must be a Member Firm upon which member privileges have been conferred by the owner of the Member Firm, or by the owner and a lessee leasing a membership from the owner of the corporation. The owner of the Member Firm must own both memberships. The lease agreement, if any, shall provide that the lease agreement shall terminate immediately upon the failure of the Member Firm to meet its obligations to the Exchange or its Members and that the membership shall be available to satisfy such obligations. The member firm must have and maintain \$250,000 working capital; and the obligations of the Member Firm to the Clearing House must be guaranteed by its owner. Such a Member Firm will be permitted to Clear trades executed by or for the account of the owner and to qualify only the owner. The Member Firm may not qualify, clear or guarantee the trades of a lessee who confers membership privileges upon the corporation. The Member firm must maintain at all times at the Clearing House original margin deposit of \$100,000 regardless of lesser applicable margin requirements. The Member Firm must file with the Exchange financial statements as follows: a certified financial statement within ninety (90) days of the close of its fiscal year and quarterly financial statements within forty five (45) days of the close of each fiscal quarter other than the last fiscal quarter.

(2) In the event that a claim(s) against the lessee aggregating in excess of \$10,000 is (are) asserted, pursuant to any available means, the Member Firm shall, within two business days of the assertion of such claim, liquidate or transfer all positions cleared on the books of the Member Firm and cease doing business as a Member Firm; provided, however, that such action need not be taken if, within two business days of the assertion of a claim, the owner of the Member Firm deposits and maintains with the Clearing House \$300,000 original margin in addition to the margin requirements of this Section (K) to satisfy any and all claims that may be raised against the Member Firm or its owner and within thirty calendar days of such claim, the privileges of another membership owned by the owner of the Member Firm are conferred upon the Member Firm. On the effective date of the substituted conferred membership privileges, the \$300,000 additional original margin may be returned to the owner of the Member Firm. The original leased membership shall remain available to satisfy the claims, if valid, against the lessee.

(3) In the event that a claim(s) against the Member Firm aggregating in excess of \$10,000 is (are) asserted, pursuant to By-law 857, Rule 2.51, or Rule 5.19 or, if by the Exchange pursuant to any available means, the lessee who has conferred the privileges of a leased membership on the Member Firm shall, within two business days, liquidate all positions held by or on his behalf and shall cease doing business as a Member of the Exchange; provided, however, that such action need not be taken if, within two business days:

(a) the lessee demonstrates that he owns or leases more than one membership; or

(b) the lessee, lessor or Member Firm deposits with the Exchange a Certified check, payable to the Exchange, in an amount equal to the higher of the price at which a Membership was last sold or at which a membership was offered and acknowledges that such funds shall be available to satisfy any and all valid claims against the lessee.

Provided, further, that in the event that the lessee continues to do business pursuant to the provisions of (a) or (b) above, the leased seat shall be available to satisfy any valid claims against the

## Member Firm.

(L) Each member who is a proprietor of a corporation or partnership which is a member of the Clearing House, pursuant to Section (K) of this Rule or otherwise, and as its principal business clears the trades of its proprietors in the house account shall guarantee to the Exchange, its members and member firms in a form and manner acceptable to the Exchange, the full and prompt payment of any and all obligations arising out of Exchange transactions made by or on behalf of such member. As used in this Section (L), the term proprietor shall mean an officer, director, or owner or controller of ten percent (10%) or more of the common or stock of a corporation or a general or limited partner of a partnership.

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### 9.03 Guaranty Fund

#### (A) Contributions

Each Clearing Member shall deposit, and keep deposited, with the Exchange the amount prescribed in Section (B) as a contribution to the Guaranty Fund. The monies, securities, and instruments so deposited shall collectively constitute a fund known as the "Guaranty Fund" and shall be used as provided in the Rules to reimburse the Exchange for any loss sustained by the Exchange as a result of the failure of any Clearing Member to discharge his obligations in accordance with the Rules. The Board of Directors shall determine the appropriate size of the Guaranty Fund.

#### (B) Schedule of Contributions

The amount required to be deposited by each Clearing Member shall be determined by a formula as recommended by the Clearing House Committee and approved by the Board of Directors. Such formula will include certain components of risk and volume and will be calculated by the Exchange staff on a quarterly basis, or more frequently if deemed appropriate. At no time will a Clearing Member's minimum contribution be below \$2 million.

The amount deposited shall be in any combination of:

- (1) U.S. Dollars,
- (2) shares of certain Money Market Mutual Funds as approved by the Board of Directors and subject to the provisions of NYMEX Rule 9.05 (E) (4),
- (3) securities issued by the Department of the Treasury of the United States maturing within ten (10) years of the date of the deposit and guaranteed as to principal and interest by the United States government valued at ninety-five percent (95%) of par value.

#### (C) Custody

- (1) The Guaranty Fund shall be deposited in a special account in the name of the Exchange in such depositories in the City of New York as may be designated by the Board.
- (2) The Board shall be empowered to invest and reinvest all or part of the funds constituting the Guaranty Fund in direct obligations of the United States and/or to deposit said funds at interest. Such investments and deposits shall be at the risk of the Exchange. All net income and gains on such investments and interest on such deposits shall belong to the Exchange and shall be withdrawn from the Guaranty Fund and deposited with the general funds of the Exchange.

#### (D) Impairment

If the Guaranty Fund or any part thereof be lost or become unavailable from any cause other than the default of the depositing Clearing Member, the amount so lost or made unavailable shall be forthwith restored by transferring thereto all of the surplus of the Exchange that may be necessary, except such amount as the Board may, in its discretion, decide to retain as surplus for future operating expenses, and if the amount thus transferred from surplus be not sufficient to cover the entire loss, the balance of such loss shall be made up by an assessment in equal shares upon each of the Exchange members. Such assessment shall be paid to the Exchange immediately (but in no case to exceed one business day) after notice in writing thereof shall have been mailed to each of the Exchange members.

#### (E) Surrender of Guaranty Fund Deposit

After a Clearing Member ceases to be a Clearing Member of the Exchange and after all obligations of such member to the Exchange shall have been discharged in full, the amount of the Guaranty Fund that to which such Clearing Member is entitled shall be returned. Any expense, including counsel fees, incurred by the Exchange in connection with a Clearing Member's deposit or the return thereof, may be charged to the Clearing Member.

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### 9.03A Use of the Guaranty Fund

(A) The Exchange may at any time and from time to time assign, pledge, repledge or otherwise create a lien on or security interest in, the Guaranty Fund and/or the cash, securities and other property held in the Guaranty Fund to secure the repayment of funds borrowed by the Exchange (plus interest, fees and other amounts payable in connection therewith).

(B) Any such borrowing shall be on terms and conditions deemed necessary or advisable by the Exchange (including the collateralization thereof) in its sole discretion, and may be in amounts greater, and extend for periods of time longer than the obligations, if any, of any Clearing Member to the Exchange for which such cash, securities or other property was pledged to or deposited with the Exchange.

(C) Any funds so borrowed shall be used and applied by the Exchange solely for the purposes for which cash, securities and other property held in the Guaranty Fund are authorized to be used pursuant to Exchange Bylaws and the Rules; provided that the failure of the Exchange to use such funds in accordance with this Section (C) shall not impair any of the rights or remedies of any assignee, pledgee or holder of any such lien or security interest.

(D) Cash, securities and other property held in the Guaranty Fund shall remain the property of the respective Clearing Members depositing such cash securities and other property, except that:

(1) such property shall be subject to the rights and powers of the Exchange with respect thereto as set forth in Exchange Bylaws, the Rules, and any agreements between any Clearing Member and the Exchange; and

(2) such property shall be subject to the rights and powers of any person to which the Guaranty Fund or any cash, securities or other property held therein shall have been assigned, pledged, repledged or otherwise subjected to a lien or security interest.

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#### **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 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 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. [back to top](#)

**9.04A NYMEX ClearPort® Clearing: Use of EFS and EFP Procedures for Trade Submission**

(A) Scope of this Rule. This rule governs transactions not executed on the Exchange ("Transactions") that are submitted to NYMEX via NYMEX ClearPort® Clearing for clearing in connection with a contract that is listed for clearing only or listed for trading and clearing on the Exchange. None of the provisions of this rule govern transactions submitted to clearing that have been executed in an over-the-counter pari-mutuel auction, which are instead governed by the terms of Rule 9.40C. In submitting a transaction to NYMEX ClearPort® Clearing or in allowing a transaction to be submitted to the Exchange to NYMEX ClearPort® Clearing, the two parties to the Transaction shall be deemed to have mutually agreed to initiate a process to substitute their transaction for a standardized futures contract listed for clearing only or listed for trading and clearing on the Exchange. For purposes of this rule, the two principals in the transaction shall be referenced as the "Parties to the Transaction."

(B) **Transactions: Compliance with Regulatory Exemptions and Exclusions.** Each of the Parties to the Transaction shall be responsible for ensuring that the Transaction complies with CFTC regulatory requirements as applicable for such transaction, including as appropriate compliance with the terms of a statutory exemption or exclusion under the Commodity Exchange Act from other CFTC regulation relied upon by the Parties to the Transaction.

(C) **Substitution of NYMEX Futures for the Transaction.** The process of substitution of a NYMEX futures contract for a Transaction shall not be deemed to have been completed unless and until the Parties to the Transaction have successfully concluded the submission of the Transaction to the Exchange as an exchange of futures for physicals (EFP) or as an exchange of futures for swaps (EFS), as applicable, pursuant to the respective provisions of NYMEX Rule 6.21 or Rule 6.21A and the provisions of this rule. For forward transactions involving deferred delivery of the physical commodity to be submitted to the Exchange, the Parties to the Transaction shall utilize the EFP procedure, and for swap transactions to be submitted to the Exchange, the Parties to the Transaction shall utilize the EFS procedure.

(D) **Trade Submission Procedures.** All transactions submitted to the Exchange pursuant to this rule must be submitted in accordance with the procedures established by the Board of Directors for this purpose, as amended from time to time. The Parties to the Transaction and any OTC Broker authorized to submit executed transactions on their behalf to the Exchange and authorized for related activities shall be exclusively responsible, both individually and jointly, for accurately confirming the details of the Transaction to the Exchange. Once submitted, all such transactions, subject to the rules for trade adjustments set forth in Section (G) of this Rule, shall be deemed final. Neither the Exchange nor a Clearing Member carrying the account of either party will have any responsibility in the confirmation of trade terms for the EFP or EFS transaction.

(E) **Registration of Eligible Participants, Eligible Accounts and Authorized OTC Brokers.** Each Clearing Member must register with the Exchange in the manner provided any customer authorized by the Clearing Member to submit transactions to the Exchange pursuant to this rule, and must also register with the Exchange the applicable account numbers for each such customer. For each such account, the Clearing Member carrying that account also must submit to the Exchange in the manner provided the name of any OTC Broker(s) who has registered with the Exchange for services provided by the Exchange, and who is authorized by the customer to act on its behalf in the submission of executed transactions to the Exchange and related activity.

For any such OTC Brokers authorized by the customer and submitted to the Exchange by the Clearing Member, such submission by the Clearing Member will not constitute an endorsement or ratification of the customer's authorization of the OTC Broker. Moreover, submission of OTC Brokers authorized by the customer will not mean that the Clearing Member is in privity with, has a relationship with and/or is otherwise standing behind any of the customer's authorized OTC Brokers, and the Clearing Member will have no responsibility for any such OTC Brokers selected by the customer and no duty or obligation to supervise the activities of any such OTC Brokers.

(F) **Establishment of Authorized Commodities and Total Risk Value.** For each account number that has been registered with the Exchange pursuant to Section (E) of this rule, a Clearing Member also must input into the Exchange's Risk Allocation Value "E-RAV" system authorization indicating the specific commodities for which a Transaction may be submitted to the Exchange pursuant to this rule and the risk value(s) assigned by the Clearing Member for Transactions for that account.

(G) **Trade Deletion Procedures for Transactions Submitted via NYMEX Web Interface.** Following submission of the trade details to the web interface by an OTC Broker (or by Exchange staff as mutually agreed by the Parties to the Transaction), an e-mail will be transmitted to the Parties to the Transaction notifying them that they have been listed as counterparties in a Transaction that has been submitted to the Exchange. Following such submission, a buyer or seller may not unilaterally reject the trade terms previously submitted to the Exchange. However, in order to correct an error resulting from the good faith actions of the OTC Broker or Exchange staff, as applicable, and upon mutual consent of the Parties to the Transaction, an OTC Broker or Exchange staff, as applicable, may void the transaction provided, however, that this void response is received by the Exchange within sixty (60) minutes of the time of the initial submission of the transaction to the Exchange.

Following the posting of the transaction on the Exchange, the Parties to the Transaction shall have no recourse or remedy under Exchange rules and procedures against any OTC Brokers and/or Clearing Members in connection with that transaction and instead would need to pursue such private remedies as would be otherwise available under existing law.

(H) **Entry of Clearing Orders.** For a Transaction submitted to the Exchange pursuant to this rule, such transaction first will be routed to the Exchange's E-RAV Credit Check system. The time of entry of a Clearing Order into the Exchange's E-RAV system will be recorded by the system and will be used by the Exchange as the time that an E-RAV Credit Check was conducted pursuant to Section (I) below.

(I) **Use of E-RAV Credit Check System.** The Exchange will conduct an E-RAV Credit Check for each Clearing Order. The E-RAV Credit Check will confirm whether the Clearing Member carrying that account has authorized that account for transactions submitted pursuant to this rule in the commodity involved in the Clearing Order, and confirm whether the entry of the Clearing Order into clearing would fall within the OTC risk value(s) established by the Clearing Member.

At all times until both Clearing Orders have successfully cleared the E-RAV Credit Check, a transaction submitted to the Exchange pursuant to this rule shall remain as an uncleared, bilateral OTC

transaction wherein the Parties to the Transaction continue as principals in that transaction.

In the event that either Clearing Order is rejected as a result of the ERAV Credit Check test, the EFS or EFP procedure would be deemed to have been terminated, and the Parties to the Transaction and their respective Clearing Members would be informed accordingly. Thereafter, any determination as to further action with respect to the OTC Transaction would be resolved by the Parties to the Transaction independently of the their Clearing Members and/or the Exchange.

**(J) Trade Submission Deadlines.** Transactions that are submitted, confirmed and accepted for clearing, as further provided by Section (K) of this rule, prior to 2:30 p.m. New York time on an Exchange business day will be included by the Exchange for clearing for that business day (except for Fridays and a business day preceding a holiday weekend) and prior to 4:30 p.m. on Friday and on a business day preceding a holiday weekend. The Exchange reserves the right to modify these business hours without notice at any time. The hours for electronic submission via the NYMEX website shall be from 7:00 p.m. Sunday evening through 4:30 p.m. Friday afternoon, except for the period from 2:40 p.m. to 3:15 p.m. (Monday-Thursday). The NYMEX facilitation desk will be available to assist users from 7:30 a.m. to 5:00 p.m. (Monday-Friday.)

**(K) Clearance by Both Clearing Orders of Credit Check.** Upon clearance by both Clearing Orders of the E-RAV Credit Check, the transaction shall be deemed to have been accepted for clearing and will be routed automatically to the Exchange's clearing system. Consequently, the EFS or EFP procedure also shall be deemed to have been completed, and futures contracts thereafter will effectively be substituted for the Transaction that is thus extinguished between the Parties to the Transaction.

Notwithstanding the above, a Clearing Member also shall be responsible for accepting and clearing a position for a Clearing Order entered into the Exchange's clearing system for clearing following any non-operation of the Exchange's E-RAV Credit Check functionality for the applicable account carried by the Clearing Member.

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#### **9.04B Use of E-RAV Risk Filter for Trading on NYMEX ClearPort® Trading**

**(A) MANDATORY USE OF EXCHANGE E-RAV RISK FILTER FOR ORDERS SUBMITTED TO NYMEX ClearPort® TRADING VIA FRONT-END TRADING APPLICATION TO CPT PROVIDED BY NYMEX.**

No order for a contract listed for trading on NYMEX ClearPort® Trading that is submitted to CPT via the trading graphical user interface, i.e., front-end trading application, to CPT provided by the Exchange may be accepted for entry into NYMEX ClearPort® Trading unless and until the carrying Clearing Member for the applicable account-holder has input electronically to NYMEX ClearPort® Trading the following required information:

- (1) the account number;
- (2) the contracts approved for trading for that account;
- (3) with respect to trading on NYMEX ClearPort® Trading the Risk Allocation Value for that account using the Exchange's enterprise risk allocation value system ("E-RAV"); and
- (4) in addition to the Risk Allocation Value, setting net short and net long position limits for each contract permissioned by the Clearing Member for that account.

**(B) OPTIONAL USE OF EXCHANGE E-RAV RISK FILTER FOR ORDERS SUBMITTED TO NYMEX ClearPort® TRADING VIA A FRONT-END TRADING APPLICATION CERTIFIED BY THE EXCHANGE**

With respect to access to NYMEX ClearPort® Trading via a non-Exchange trading front-end trading application that is certified by the Exchange, for each connection to NYMEX ClearPort® Trading via such an application, the User in its discretion may determine to use or not use the E-RAV risk filter provided by the Exchange. If the User determines for a particular connection not to utilize the E-RAV risk filter, this filter will not be available for any orders submitted through such connection, including orders submitted by any and all of the User Agents making use of such connection. If the User determines for a particular connection to utilize the E-RAV risk filter, use of the filter will be mandatory for all orders submitted through such connection, including orders submitted by any and all of the User Agents making use of such connection, and all of the requirements of this Rule 9.04B shall be applicable.

**(C)** The E-RAV risk filter does not apply to trading activity for the Regular Trading Hours session or trading activity for the NYMEX ACCESS® trading session. Trading on NYMEX ACCESS® is governed by a separate and distinct risk filter.

**(D)** With respect to NYMEX ClearPort® Trading, the E-RAV risk filter shall include the permissioning of specific contracts, a dollar limit for a given customer account permissioned by the Clearing Member as well as net long and net short position limits set by the Clearing Member for each contract permissioned for that customer.

**(E)** A Clearing Member may modify at any time by electronic input in the manner prescribed by the Exchange the information required by Section (A).

**(F)** A Clearing Member agrees unconditionally to accept and to clear all trades executed for that account for which it has input information pursuant to Section (A), regardless of malfunction or non-operation of the Exchange's contracts order filter functionality, the Risk Allocation Value order filter functionality, and/or the position limit functionality.

**(G)** Following input of the information required in Section (A) above for any account, an order for such account may be executed by or on behalf of the account-holder of the permissioned account.

**(H)** Notwithstanding Section (G) above, the Exchange, as provided by Rule 8.99A ("Summary Procedures for Denial of Access") shall have the right without limitation at any time to terminate a User's and/or User Agent's user identification, passwords and access to NYMEX ClearPort® Trading.

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#### **9.05 Margins**

It shall be incumbent upon each Clearing Member that his trades and trades of his customers be margined up to the time of the acceptance of such trades by the Clearing House.

(A) Original Margin

Original Margin shall be paid on Exchange commodity transactions in such form as determined by the Board of Directors. Original margins may be changed at the discretion of the Board.

(B) Variation Margins

The President of the Exchange, at any time during the day, may call for variation margins to meet the variations in the market. Such margins shall be paid to the Exchange within the time limits prescribed by the President.

(C) Additional and Advance Margin

In the President's discretion if the protection of the Exchange so requires, the President may call for additional original margin from any one or more clearing members in such forms, and at such times as the President may specify. The President may lower the margins that were increased when the Exchange no longer requires the protection of increased margins.

(D) Straddle Margins

(1) Futures Straddles

A Clearing Member carrying an account which has both a long and a short futures position with the Clearing House in a particular commodity, in the same or different contracts but in no event for the same delivery month of the same contract, may treat such long and short positions to the extent they are equal in quantity as a futures straddle. Each trade comprising a straddle shall be subject to separate brokerage and clearing charges. Initial margins deposited shall be the higher required for either trade or trades and when so deposited shall be sufficient for both trades but each trade shall be brought to the settling price, daily. When one trade of a straddle transaction is closed out all the remaining trade or trades that comprise the straddle must have the required original margin deposited with the Clearing House.

(2) Options Straddles

A Clearing Member carrying an account which has both (1) a short call option and a long call option; (2) a short put option and a long put option; (3) a long put option and a long call option; or (4) a short put option and a short call option, in a particular commodity, but in no event for the same series, may treat such positions to the extent they are equal in quantity as an options straddle. Each trade comprising a straddle shall be subject to separate brokerage and clearing charges. Initial margins deposited shall be the higher required for either trade or trades and when so deposited shall be sufficient for both trades but each trade shall be brought to the settling price, daily. When one trade of a straddle transaction is closed out all the remaining trade or trades that comprise the straddle must have the required original margin deposited with the Clearing House.

(E) Clearing Members may meet original margin calls by depositing:

(1) Cash (U.S. Currency);

(2) Original Margin Certificates issued by an original margin depository, in form acceptable to the Clearing House, for delivery to the order of the Clearing House, representing securities issued by the Department of Treasury of the United States of America maturing within ten (10) years from the date of the deposit and guaranteed as to principal and interest by the United States Government; such securities shall be valued at ninety five percent (95%) of the par value; or

(3) Subject to a maximum limit of 50% of the Clearing Member's total original margin obligations, Irrevocable Letters of Credit payable to the order of the Clearing House including such Letters of Credit that are deposited with the Clearing Member in accordance with Exchange procedures by a customer, in form acceptable to the Clearing House, issued by or confirmed by an original margin depository and having an expiration date of not less than three (3) or more than eighteen (18) months from the date of issuance; provided, however, that such Letter of Credit may not be used to meet original margin obligations during the fifteen calendar days prior to the expiration date thereof (if the fifteenth day prior to the expiration of the Letter of Credit is not a business day, the period during which such Letter of Credit may not be used to meet original margin obligations shall begin on the business day immediately preceding that day); and, provided further, that on the business day preceding the fifteenth calendar day prior to the expiration of the Letter of Credit, the Clearing House shall issue a call for original margin to be deposited in a form and manner acceptable to the Clearing House for positions held open as of the close of business on that day and margined by the Letter of Credit. The Clearing House shall have the unqualified right to call on any Letter of Credit at any time prior to expiration.

(4) Shares in a money market mutual fund that complies with CFTC Regulation §1.25 and that has been approved by the Board, subject to the following conditions:

(i) for purposes of original margin, such shares will be valued at 95% of market value; (ii) a Clearing Member's participation in any approved fund shall be limited to no more than 5% of that fund; and (iii) no more than 25% of the total assets of an approved money market mutual fund may be used to meet original margin obligations at the Exchange.

(F) The Clearing House shall have the right, at all times, to prohibit or otherwise limit the use as original margin by any Clearing Member of letters of credit or of securities under this Rule.

(G) The Clearing House shall retain the original margin deposited with respect to any futures contract against which a delivery notice has been issued until the business day after the delivery date or such date as designated by the Clearing House.

(H) Customer Accounts with the Exchange

(1) Except as provided in subsection (2) below, all customer funds deposited with the Exchange shall be held in accordance with the Commodity Exchange Act and Commission Regulation 1.20 in an account identified as Customer Segregated. Customer funds shall be segregated by the Exchange and treated as belonging to the customers of the clearing member. Pursuant to this Rule, clearing members registered as Futures Commission Merchants shall not be required to obtain a segregated acknowledgment letter from the Exchange.

(2) Customer funds deposited with the Exchange for cleared transactions in over-the-counter pari-mutuel auctions may be deposited in either a member account or a customer non-regulated account. Neither account shall be treated as a customer segregated account.

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### 9.06 Failure of Clearing Member to Deposit Margins

In the event of the failure of a member to deposit any margins as required, the President, with the approval of the Board, may close out all or any part of the trades in the best interest of the Exchange and the defaulting Clearing Member. Any loss resulting therefrom shall be the liability of the defaulting Clearing Member. Any Clearing Member whose trades are thus closed out shall be promptly notified thereof by the President.

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### 9.07 Limit of Clearing House Losses

Losses to be borne by the Clearing House shall be limited to losses resulting from the substitution of the Clearing House under contracts between Clearing Members, or in the case of cleared transactions in over-the-counter pari-mutuel auctions, under contracts between NYMEX and a participant in such an auction that are given up for clearing.

The Clearing House shall not be liable for any obligations of a non-Clearing Member, nor for any obligation of a Clearing Member to a non-Clearing Member, nor for any obligation of a Clearing Member to another member of the Clearing House who is acting for him as broker.

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### 9.08 Clearing House Not Liable to Customer

The Clearing House shall under no circumstances become liable to make deliveries to or accept deliveries from a customer of its Clearing Members, or in any way become obligated to a customer by reason of any contract or, except as otherwise provided, to exercise any option or accept assignment of such exercise on behalf of a customer of its Clearing Member, made for the customer by a Clearing Member. Such customer must look to his Clearing Member or broker to make or accept all deliveries, to exercise or accept assignment of exercise, of any options contract for all settlements.

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### 9.09 Clearing Fees

(A) Charges for clearing trades shall be fixed by the Board upon the recommendation of the Clearing House Committee and shall be payable by Clearing Members as billed. All Clearing Fees shall be charged per contract bought, sold, delivered or accepted.

(B) A minimum fee of \$200.00 per month shall be charged to Clearing Members.

(C) Claims by Clearing Members for adjustments to clearing charges or fees shall be made to the Exchange within 90 days of the invoicing of such charges by the Exchange. The failure to claim adjustments within this period shall constitute a waiver of such claim by the Clearing Member; provided, however, that the Board of Directors, for good cause shown and following review by the Clearing House Committee, may authorize payment by the Exchange of a late claim for adjustment filed within 6 months of the invoicing of charges by the Exchange in excess of \$1,000. Any late claim for adjustment paid by the Exchange shall be subject to a 10% administrative fee that shall be deducted from such payment. No claim for adjustment will be considered that is filed later than 6 months after the invoicing of changes by the Exchange.

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### 9.10 Trade Refused by Clearing House

When the President deems the financial condition of any Clearing Member as inadequate to carry any additional transactions he shall prohibit such Clearing Member from clearing any new transactions. Any such member may appeal from the decision of the President to the Board.

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### 9.10A Offsetting NYMEX miNY™ and Regular Futures Positions

A. With the consent of the account controller, a clearing member may offset and liquidate long NYMEX miNY™ futures positions against short regular futures positions, or short NYMEX miNY futures positions against long regular size futures positions, held in the same account in the following ratios of NYMEX miNY to regular futures contracts:

(Crude Oil) WS to QM 2:1

(Natural Gas) HP to QG 4:1

(RBOB Gasoline) RT to QU 2:1

(Heating Oil) BH to QH 2:1

B. The clearing member shall notify the Clearing House of offsetting positions by submitting reports to the Clearing House in such form and manner as the Clearing House shall specify. The positions shall be offset at the previous day's settlement price. The positions being offset shall be transferred to a NYMEX holding account. Long and short positions in the same contract and contract month held in the holding account shall be netted, thus reducing the number of open positions in such contract.

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### 9.11 Transfer of Trades

Where a member makes a trade as a broker for another member of the Clearing House, he shall file with the Clearing House immediately at the close of the call a complete description of the trade, giving the name of the principal for whom he was acting as broker and on whose Clearing Sheet the transaction is to be cleared; he shall be liable as principal upon such trade until it has been accepted by the Clearing House for the account of his principal.

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### 9.11A Give-Up Trades - Trades Executed by Open Outcry

In the absence of a give-up agreement whose terms and conditions govern the responsibilities/obligations of executing brokers, customers and Clearing Members, the following rules shall define the respective responsibilities/obligations of those parties to an order. The "executing broker", as used in this rule, is the registered billing entity, Member Firm or Floor Broker to whom the order is transmitted.

#### (A) Responsibilities/Obligations of Clearing Members

- (1). Limits Placed by Clearing Member. A Clearing Member may, in its discretion, place trading limits on the trades it will accept for give-up for a customer's account from an executing broker, provided however, that the executing broker receives prior written or electronic notice from the Clearing Member of the trading limits on that account. Notice must be received by the executing broker in a timely manner. A copy of such notice shall be retained by the Clearing Member.
- (2). Trade Rejection. A Clearing Member may reject ("DK") a trade only if: (1) the trade exceeds the trading limits established under Section I(A) of this rule for that customer and it has been communicated to the executing broker as described in Subsection (A); or (2) the trade is an error for which the executing broker is responsible. If a Clearing Member has a basis for rejecting a trade, and chooses to do so in accordance with the provisions of Rule 2.21(B), it must notify the executing broker promptly.
- (3). Billing. A Clearing Member will pay all floor brokerage fees incurred for all transactions executed by the executing broker for the customer and subsequently accepted by the Clearing Member by means of the ATOM system. Floor brokerage fees will be agreed upon in advance among the Clearing Member, customer and the executing broker.

#### (B) Responsibilities/Obligations of Executing Brokers

- (1) Customer Order Placement. An executing broker will be responsible for determining that all orders are placed or authorized by the customer. Once an order has been accepted, a broker or the broker's clerk must:
  - (a) confirm the terms of the order with the customer;
  - (b) accurately execute the order according to its terms;
  - (c) confirm the execution of the order to the customer as soon as practicable; and
  - (d) transmit such executed order to the Clearing Member as soon as practicable in accordance with Exchange Rules and procedures.
2. Use of Other Persons. Unless otherwise agreed in writing, the executing broker is allowed to use the services of another broker in connection with the broker's obligations under these rules. The executing broker remains responsible to the customer and Clearing Member under these rules.
3. Executing Broker Responsibility for Verifying Clearing Member Authorization. Prior to a broker accepting and executing an initial order for any new customer account, the executing broker must confirm with the Clearing Member by telephonic, electronic or written means, that:
  - (a) the customer has a valid account with the Clearing Member;
  - (b) the account number;
  - (c) the brokerage rate;
  - (d) the customer is authorized by the Clearing Member to place orders with the executing broker for that account.The executing broker must retain a copy of the authorization or the specifics of the telephonic confirmation, which includes: opposite party, date, time, and any other relevant information. The falsification of such information shall be the basis for disciplinary action.
4. Rejection of Customer Order. Where an executing broker has confirmed Clearing Member authorization to execute orders on behalf of a customer in accordance with this Rule 9.11A, the broker may, in the broker's discretion, reject an order that the customer transmits to the broker for execution. The broker shall promptly notify the customer and the Clearing Member(s) of any such rejection.

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### 9.12 Substitution

The Exchange may accept contracts offered to it by Clearing Members for clearance, and by such acceptance shall, in place of either party to a contract so accepted and toward the other party thereto, assume the obligations imposed thereby and succeed to and become vested with all the rights and benefits accruing therefrom, assuming to the buyer the position of seller and to the seller the position of buyer, as the case may be. As between the Exchange and each of the parties to an accepted contract the terms and conditions thereof shall continue in full force and effect.

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### 9.13 Bank Holidays

When the Exchange is open for business on a day banks are closed, because of a legal or bank holiday, the time limit for settlement of Clearing House accounts shall be extended to the next bank business day.

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### 9.14 Omnibus Accounts

No Clearing Member may execute contracts for future delivery or options contracts on the Exchange for a carrying house which does not disclose the names of its customers or options customers (omnibus accounts) unless the carrying house agrees that it will, on request of the Clearing Member, disclose to the Clearing Member, the names, addresses, positions and transactions of its customers; provided, however, that the Clearing Member shall not call for such information unless requested to do so by the Board, a Committee of the Exchange or the President. A copy of such agreement shall be made available by the Clearing Member upon request of the Exchange.

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### 9.15 Refund of Clearing Fees

Should the income of the Exchange derived from Clearing Members in any year be in excess of its expenses for such year, the Board may, in its sole discretion, return any or all of such excess income to Clearing Members in the proportion that the number of contracts cleared by each Clearing Member on which a clearance fee was charged by the Exchange during such year bears to the total number of such contracts cleared by the Exchange during such year. The decision of the Board with respect to the determination of excess income and the decision whether to return, retain or otherwise use such excess income shall be conclusive.

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### 9.16 Transaction Fees

Clearing Members shall collect from non-member customers a transaction fee as established by the Exchange for each commodity contract bought or sold or otherwise cleared on or subject to the rules of the Exchange and remit said fees to the Clearing House as billed.

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### 9.17 Delivery Procedure

Commodities bought or sold on Exchange contracts shall be delivered and accepted in accordance with the provisions of this Chapter, supplemented by provisions of the rules applicable to individual commodities. Any question affecting the handling or delivery or any commodity which is not specifically covered by the Bylaws and Rules may be referred to the Board for determination.

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### 9.18 Delivery Through Clearing House

All deliveries or settlements in fulfillment of listed Exchange contracts shall be made through the Clearing House in accordance with Bylaws and Rules.

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### 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 contract that is listed for trading solely on 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.

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### 9.19A Transfers to Correct Errors Occurring on the Last Day of Trading

(A) For purposes of this Rule 9.19A, a clearing member carrying open contracts in an expired delivery month for its own account or the account of any other person as the result of an error may, by consent of the account owners, transfer any or all of such contracts to any other account carried by such clearing member or to any other clearing member; provided, however, that;

(i) such transfer shall occur not later than the time prescribed for clearing members to file with the Exchange a Notice of Intention to Accept or Deliver for the specific commodity, by which time the clearing member(s) effecting the transfer, shall deliver to the Clearing House written notification of such transfer in the form and manner prescribed by the Exchange specifying the parties thereto and the prices at which such transfers were effected; and

(ii) the clearing member(s) must submit and retain records of all forms presented to the Clearing House for the processing of any error transfer trade.

(B) In the event that the error is discovered after the close of trading on the last day of trading in an expiring contract, but before the trade is assigned to a clearing member, a floor member may transfer the position held in error to any account carried by any clearing member, provided that the floor member and the clearing member carrying the account accepting the positions submit to the Exchange and retain a copy of the forms required by the Exchange for the transfer of such position.

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### 9.20 Position Limits

(A) Defined Terms

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

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

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

(B) Aggregate Position Limits

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

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

(C) Super Margin Deposits

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

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

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

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

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

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

(E) Liquidation of Excess Positions

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

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**9.21 Minimum Capital Requirements and Transfer Restrictions on Common Stock**

(A) Working Capital Defined

For purposes of this Rule, the term "working capital" shall mean the amount by which current assets exceed current liabilities as calculated in accordance with generally accepted accounting principles or in the case of a Clearing Member registered as a Futures Commission Merchant it shall mean "adjusted net capital" as calculated in accordance with CFTC Regulation 1.17.

(B) Minimum Financial Requirements

Each Clearing Member registered with the Commission as a futures commission merchant shall have and maintain minimum working capital equal to or in excess of the greater of \$5,000,000 or the amount prescribed in Commission Regulation 1.17. Except as provided in Rule 9.02(K), all other Clearing Members shall have and maintain minimum working capital of \$5,000,000. In addition, until further notice from the Exchange, each Clearing Member shall at all times own and maintain at least two Exchange Class A memberships and at least 180,000 shares in NYMEX Holdings, Inc. common stock.

(C) Additional Financial Requirements for Primary Clearing Members

A Primary Clearing Member shall maintain \$50,000 in additional working capital, as defined in Subsection (A) above, for the guarantee of each Floor Member as noted within Rule 2.21 in excess of one hundred (100) of such guarantees for each Division of the Exchange, provided, however, that no such requirement shall apply where the guaranteed Floor Member has net liquid assets in excess of one hundred thousand dollars (\$100,000) and such Floor Member files with the Primary Clearing Member an annual financial statement as of the calendar year-end and presented on a form as provided by NYMEX documenting net liquid assets in excess of one hundred thousand dollars (\$100,000). The Primary Clearing Member shall obtain such financial statement and supporting schedules no later than January 31 of each year and maintain these documents as part of the Primary Clearing Members books and records.

(D) Alternative Measure of Financial Soundness

The Board of Directors or its designee may exempt a Clearing Member from the working capital requirement set forth in Rule 9.21 (B) if, in its sole discretion, an alternative measure of financial soundness of such Clearing Member, such as a minimum level of net worth, is more appropriate.

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## 9.22 Financial Reporting

For purposes of this Rule 9.22, "Working Capital" shall be defined by Rule 9.21(A), "Net capital" shall be defined by Commission Regulation 1.17(c)(1) and "Excess Net Capital" shall be defined as Net Capital less the minimum capital required by Rule 9.21(B). For purposes of this Rule 9.22, an "FCM" shall mean a clearing member that is registered with the Commission as a Futures Commission Merchant.

### (A) Quarterly Reports

(i) Each clearing member shall file with the Financial Surveillance Section of the Compliance Department, within ninety days after the close of each fiscal year of such member, a copy of such member's balance sheet and income statement as of the close of such fiscal year, certified by an independent public accountant. Each clearing member shall also file with the Financial Surveillance Section of the Compliance Department, within forty-five days after the close of the second quarter of each fiscal year of such member, a copy of such member's balance sheet and income statement as of the close of such quarter, certified by the chief financial officer of the clearing member. These reporting requirements may be satisfied by filing with the Financial Surveillance Section of the Compliance Department a copy of Commission form 1-FR or Part II of the Securities and Exchange Commission Financial and Operational Combined Uniform Single ("FOCUS") Report, certified by an independent public accountant or the chief financial officer of the clearing member, as may be required.

(ii) Each clearing member that is registered as an FCM shall file with the Financial Surveillance Section of the Compliance Department both annual certified financial statements as well as quarterly unaudited financial statements in the manner and format as required by CFTC Regulation 1.10.

### (B) Reports to Other Regulatory Authorities

Each clearing member shall also promptly file with the Clearing House of its designated agent a copy of any financial statement which such clearing member may file with the Commission, any registered national securities exchange, any commodity exchange or any other clearing organization.

### (C) Impairment of Capital Reports

(1) In the event that the Working Capital of any clearing member at any time falls below the minimum Working Capital required by Rule 9.21(B), such clearing member shall give immediate written notice of the fact by the fastest available means of communication to the Financial Surveillance Section of the Compliance Department. Such written notice shall include the information required by By-Law Section 851 (Duty to Report Emergency Event).

(2) In the event that the Working Capital, as defined by Rule 9.21(A), of any clearing member, or Net Capital if registered as an FCM, at any time declines by 20% or more from the capital last reported to the Exchange, the clearing member shall give formal written notice of such event to the Financial Surveillance Section of the Compliance Department within two (2) business days of its occurrence. Such "Notice of Capital Impairment" shall state the date of and applicable reason(s) for the decline.

(3) In the event a clearing member knows, or has reasonable basis to believe, that, as a result of one or more transactions, the working capital, or Excess Net Capital if registered as an FCM, likely will be reduced by more than 30% from the capital on the previously submitted financial statement, the clearing member shall advise the Financial Surveillance Section of the Compliance Department in writing at least 2 business days prior to making any such transaction(s) (e.g. dividend payments, loans, etc.)

### (D) Other Financial Reports

The Clearing House may at any time and from time to time require any or all clearing members, in its discretion, to file with the Clearing House, or another person designated by the Clearing House, such additional financial information, authenticated in such manner, as the Clearing House may from time to time determine.

### (E) Accountants Reports

The qualifications and reports of accountants for clearing members must meet the requirements set forth in Commission regulations and must be satisfactory to the Clearing House.

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## 9.23 Protection of Clearing House

### (A) Clearing Member Assets

If a clearing member fails promptly to discharge any obligation to the Clearing House, its margin on deposit with the Clearing House, its deposit in the Guaranty Fund, and any of its other assets under the control of the Exchange or the Clearing House shall be applied by the Clearing House to discharge the obligation.

For purposes of this Rule, the positions in the cross-margin account of a participating Clearing Member or its Cross-Margin Affiliate at a Cross-Margin Clearing Organization, and the margin deposited thereon, shall be considered an asset of the Participating Clearing Member available to the Exchange to the extent provided in the Cross-Margin Agreement between the Exchange and such Cross-Margin Clearing Organization.

If the failure to discharge the obligation involves a default in the customer segregated account of the clearing member, all of such assets (whether held for the member, customer segregated or customer non-regulated accounts) shall be available to discharge the obligation. If such failure involves a default in the member account and/or customer non-regulated account of the clearing member, only that portion of such assets as are held in the member and/or customer non-regulated accounts shall be available to discharge the obligation. The clearing member shall immediately make up any deficiencies in its margin or its deposits in the Guaranty Fund resulting from such application.

### (B) Other Assets

If the margin deposits in the Guaranty Fund and other assets of the Clearing Member under the control of the Exchange or the Clearing House are insufficient to satisfy all of the clearing member's

obligations to the Clearing House, and if the clearing member fails to pay the Clearing House the amount of any such deficiency within one business day, the amount of the deficiencies shall be paid from the following sources of funds, each such source to be completely exhausted before the next following source is applied:

- (1) First, such Exchange funds as the Board in its discretion may determine to apply;
- (2) Second, proceeds from each clearing member's Guaranty Fund based on each firm's percentage of the total Guaranty Fund requirement of all clearing members per Rule 9.03; and
- (3) Third, such assets as may be made available from assessments against Clearing Members pursuant to Section (C) of this Rule.

Any amount so paid shall be deemed a loss to the Exchange or the Clearing House and shall be a liability of the defaulting Clearing Member to the Exchange or the Clearing House.

(C) Assessments

(1) Except as provided in Section (D) of this Rule, if there is a deficiency remaining after the Guaranty Fund has been exhausted as provided in Section (B) of this Rule, each clearing member (except the defaulting clearing member and any insolvent clearing member) shall be required, subject to the limitations in this Rule, to pay an assessment in an amount as determined by the Board in an amount proportional to such clearing member's Guaranty Fund requirement compared to the total Guaranty Fund requirement of all clearing members per Rule 9.03.

(2) Notwithstanding subsection (C)(1) of this Rule, no clearing member shall be required to pay, as an assessment, any amount in excess of

(a) the greater of 40 percent of such clearing member's:

- (i) NYMEX modified capital as defined in Rule 9.20(A), or
- (ii) COMEX modified capital as defined in Rule 9.20(A), or

(b) thirty million dollars (\$30,000,000), whichever is less, during any period of ten consecutive business days (the "Maximum Assessment"). The difference, if any, between the amount that would be assessed against any clearing member pursuant to subsection (C)(1) of this Rule and the Maximum Assessment for any such clearing member, shall be considered a deficiency and shall be assessed against clearing members (excluding the defaulting clearing member, any insolvent clearing member and any clearing member which has paid the Maximum Assessment) in accordance with subsection (C) of this Rule until the entire deficiency is paid or every clearing member (except the defaulting clearing member and any insolvent clearing member) has paid the Maximum Assessment, and any such assessment shall be considered part of a single assessment, without regard to the times when they are made, for purposes of determining the Maximum Assessment.

(3) Notwithstanding subsection (C)(1) of this Rule, a clearing member which pays an assessment in accordance with this Section (C) and gives the Clearing House written notice of withdrawal from membership prior to ten business days after such assessment is made shall not be subject to any further assessment after the date such notice is received by the Clearing House, except that such clearing member shall continue to be liable for any assessment made pursuant to the second sentence of subsection (C)(2) of this Rule, up to the Maximum Assessment.

(4) Any assessments made pursuant to this Rule shall be paid by each clearing member not more than one business day after written notice of any such assessment shall have been delivered to such clearing member.

(D) Cancelled Assessments

Notwithstanding Section (C) of this Rule, no clearing member shall be assessed if there would be a deficiency after all clearing members (excluding the defaulting clearing member and any insolvent clearing member) pay the Maximum Assessment.

(E) Charges Against Guaranty Fund

In the event it shall become necessary as provided in subsections (B)(2) and (3) of this Rule to apply all or part of the Guaranty Fund to meet any clearing member's obligations to the Clearing House, each clearing member shall be liable to restore its deposit to the amount required by Rule 9.03, upon demand by the Clearing House.

(F) Insolvent Members

In the event that clearing members are assessed as provided in Section (C) of this Rule, any insolvent clearing member who has been excluded from the assessment shall nonetheless be liable to the Clearing House for the amount of the assessment that otherwise would have been imposed on such clearing member.

(G) Recovery of Losses

If a loss for which Guaranty Fund deposits have been applied or clearing members have been assessed is afterward recovered by the Exchange or the Clearing House in whole or in part, the net amount of such recovery (after deducting legal fees and any other costs of collection incurred by the Exchange or the Clearing House) shall be paid as follows:

(1) First, to clearing members who made payments to the Clearing House pursuant to paragraphs (C) or (F) of this Rule, whether or not they are still clearing members, in proportion to the amounts so assessed, until all such clearing members shall have been repaid the full amount so assessed or the net amount of such recovery shall have been exhausted;

(2) Second, to clearing members against whose Guaranty Fund deposits the deficiency was charged pursuant to subsections (B)(2) and (3) of this Rule, whether or not they are still clearing members, in proportion to the amounts charged against their respective deposits but limited to the amounts so charged; and

(3) The balance, if any, to any purpose the Board, in its discretion, may approve.

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## **XXV Resolution of the Board of Directors to establish and maintain a permanent Retail Customer Protection Mechanism**

The Board of Directors, upon consideration of a pending CFTC Order, hereby:

RESOLVES, to establish and maintain a permanent retail customer protection mechanism supported by a commitment of not less than \$10 million which shall be available at all times to promptly reimburse retail customers trading on NYMEX whose original margin funds are lost in the unlikely result of a default by another customer of the same FCM in any contract cleared by NYMEX and where such customer default of a NYMEX contract results in a default of that FCM clearing member to NYMEX and where NYMEX uses customer margin funds of that FCM clearing member to address the default. For the purposes of this resolution and said CFTC order, the term "Retail Customer" shall be defined to include all natural persons who do not otherwise qualify as an "eligible contract participant" under the requirements of Section 1a(12) of the Commodity Exchange Act, provided however, that such definition of Retail Customer shall not include any NYMEX floor traders or floor brokers and additionally shall not include family members of NYMEX floor traders and floor brokers who maintain accounts at the same FCM where such NYMEX floor trader or floor broker maintains an account.

RESOLVES FURTHER, that in the event of a FCM default to NYMEX caused by a customer default as described above where the total loss of all Retail Customers at such FCM from such default exceeds the amount of the Exchange's then current commitment, authorizes Exchange staff to compensate such Retail Customers on a pro rata basis.

RESOLVES FURTHER, that this resolution shall become effective as of the effective date of the order from the Commodity Futures Trading Commission.

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### **9.24 Original Margin Depositories and Originators of Letters of Credit**

(A) Original Margin certificates representing the deposit of securities by Clearing Members for original margin may be issued by a banking institution selected by the Clearing Member depositor provided that such institution has been approved by the Exchange as an original margin depository.

(B) Letters of credit may be issued, or confirmed, by a banking institution selected by a clearing member depositor, which institution has been approved by the Exchange as an original margin depository, and may be deposited to meet original margin requirements. Any Letter of Credit so deposited must have a term of not less than thirty (30) days nor more than three hundred sixty five (365) days.

(C) In order to be approved as an original margin depository, a banking institution must:

(1) have capital and surplus of not less than \$250,000,000;

(2) have a P-1 or A-1 rating from Moody's Investors Services, Inc. or from Standard and Poors Corp. respectively.

(D) Letters of Credit may be issued by a banking institution that is not an original margin depository provided that such banking institution has capital and surplus of not less than \$250,000,000 and a P-1 or A-1 rating from Moody's Investors Service, Inc. or from Standard & Poors Corp., respectively and, provided further, that such Letter of Credit is confirmed by an original margin depository.

(E) No approved original margin depository or issuer of a letter of credit may commit, with respect to Exchange contracts, more than the lesser of ten percent (10%) of its capital and surplus or \$1 billion, provided, however, that an issuer may issue letters of credit up to \$1.1 billion, if such issuer establishes, to the satisfaction of the Exchange, an account at another financial institution and deposits in such account, for the benefit of the Exchange, collateral in the form of U.S. Government obligations of maturities of less than ten (10) years valued at 95% of par value, for the excess over \$1 billion. Such collateral shall be deemed to secure any and all obligations of such issuer under letters of credit issued by the issuer in favor of the Exchange. The Board of Directors, upon the application of an issuer of letters of credit, may grant a waiver of the \$1.1 billion ceiling, upon such terms and conditions as it deems appropriate.

(F) The Board may grant exemptions from paragraph (C) of this Rule upon such terms and conditions as the Board finds appropriate, in its sole discretion.

(G) Notwithstanding anything to the contrary in this Rule, a Clearing Member, which is a bank subsidiary or the affiliate of a bank may not deposit with the Clearing House a Letter of Credit issued or confirmed by such bank, parent bank, or affiliate bank.

(H)(1) Each banking institution approved as a margin depository and/or issuer of letters of credit shall file with the Financial Surveillance Section of the Exchange's Compliance Department a copy of its annual certified financial statement within ninety days of the close of each fiscal year. In addition, each such approved institution shall file a copy of an unaudited financial statement within sixty days of the close of that institution's second quarter in each fiscal year. Such filings shall include, but are not limited to, an institution's balance sheet and income statement.

(2) A banking institution that fails to submit such required financial statements may be deemed to be inactive by the Exchange. Any institution that has been deemed to be inactive shall be ineligible to serve as a recognized margin depository or an issuer of letters of credit under this Rule 9.24.

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### **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 Futures Contract shall be deemed equivalent to .50 of a Light "Sweet" Crude Oil future, a NYMEX Natural Gas Mini 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.

(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

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**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 Futures Contract shall be deemed equivalent to .50 of a Crude Oil Light "Sweet" future, a NYMEX Natural Gas Mini 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.

(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 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.

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#### **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.

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#### **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.

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### **9.29 Exemptions from Position Limits for Exposure from Commodity Swap Transactions**

(A) A person may apply to the Exchange for an exemption from the position limits set forth in Rule 9.27 where such exemption is necessary to reduce exposure resulting from commodity swap transactions that meet all the criteria of the Commodity Futures Trading Commission (the "Commission"), as stated in the Policy Statement Concerning Swap Transactions, 54 Fed. Reg. 30694 (July 21, 1989), or the Exemption of Swap Agreements 17 C.F.R. Part 35 (Jan. 22, 1993), as it may be amended or interpreted by the Commission.

(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 five (5) 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; a full and complete explanation of the underlying swap exposure; an agreement to comply with the limits imposed with respect to the proposed transactions; audited financial statements or other financial statements in the form approved by the President; an agreement to comply with the By-Laws and Rules of the Exchange; an agreement to submit a supplemental statement to the Exchange explaining any material change in circumstances or information provided in the application; and 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, the underlying swap transactions, or the financial condition of the applicant.

(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 Rules 9.26 and/or 9.27.

(F) Any person who has received from the President written authorization to exceed position limits imposed under Rules 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.

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### **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, 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), 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.

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### 9.30 Hedge Notice

(A) Any person who owns or controls a bona fide hedge position in excess of the levels set forth in Rule 9.27 must file with the Exchange a written Hedge Notice accompanied by audited financial statements or other financial statements in the form approved by the President, not more than five (5) days after assuming such a position, provided, however, that such position may not be assumed with respect to a contract expiring within three (3) business days except as authorized in advance by the President; further provided that a Hedge Notice seeking exemption from a current delivery month position limit in a metals futures contract shall be filed, and must be approved, prior to assuming a position in excess of the limit; and, further provided that the President or his designee may in special circumstances authorize the late filing of any Hedge Notice.

(B) Any Hedge Notice must, except as otherwise authorized by the President, provide the following statements and information:

(i) A representation that the transactions will be bona fide hedging transactions as defined in Regulation §1.3(z)(1) of the Commission (17 C.F.R. §1.3(z)(1)) as it may be amended from time to time;

(ii) A representation that the transactions will be necessary or advisable as an integral part of such person's business; and, in that connection, a full and complete explanation of the nature and extent of such business;

(iii) A representation that the person has complied with any applicable Federal requirement relating to hedging; and, that the person has received approval, where necessary, from the Commission;

(iv) A schedule of the maximum number of contracts, long and short, which the person will establish as a hedge;

(v) An agreement to comply with whatever limits are imposed with respect to the proposed transactions; to submit a supplemental statement explaining any change in circumstances which affect the nature of such position; and, to comply with the By-Laws and Rules; and

(vi) A statement from the person's carrying firm that the transactions will be identified as hedging transactions on the books of such firm.

(C) Any person who has received from the President or his designee written authorization to exceed position limits imposed by Rule 9.27 must file with the Exchange an updated Hedge Notice annually.

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### 9.31 Revised Hedge Notice

Whenever the positions which a person desires to classify as a bona fide hedge exceed the limits imposed by the President or exceed the maximum number of contracts previously identified by such person in the Hedge Notice such person shall file with the Exchange, not more than five (5) days after the date on which such person has exceeded such amounts, a Revised Hedge Notice accompanied by audited financial statements or other financial statements in the form approved by the President provided, however, that such limits may not be exceeded with respect to a contract expiring within three (3) business days except as authorized in advance by the President; further provided that a Revised Hedge Notice seeking exemption from a current delivery month position limit in a metals futures contract previously identified in the Hedge Notice shall be filed, and must be approved, prior to assuming a position in excess of such limit; and, further provided that the President or his designee may in special circumstances authorize the late filing of any Hedge Notice.

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### 9.32 Action by the Exchange

(A) The President shall determine whether the transactions or positions described in the Hedge Notice are bona fide hedging transactions or positions.

(B) The President may impose such limits on bona fide hedge transactions or positions, as in his discretion are commensurate with market conditions, the person's business needs, financial ability and integrity.

(C) The President may review, from time to time, any approvals of hedge transactions and positions; and the President may revoke, or place limitations on, any approval. Any person who is adversely affected by a determination of the President may request the Control Committee to review such determination.

(D) No Clearing Member shall maintain or clear any position which taken alone or when aggregated in accordance with the provisions of this Chapter 9 exceeds the position limits permitted under Rules 9.27, except as otherwise authorized pursuant to this Chapter 9.

(E) In the event that the President learns that a Member or customer maintains positions in accounts with more than one Clearing Member, such that aggregating positions in all such accounts exceeds the position limits established by this Chapter 9, the President will notify each Clearing Member maintaining or carrying such accounts that it is in violation of Section (D) of this Rule 9.32. A Clearing Member receiving notification from the President or his designee that it is in violation of Subsection (D) of this Rule 9.32 shall reduce any above-limit position as directed by the President, provided that reduction of an aggregated position which is maintained by two or more Clearing Members shall be proportional unless otherwise directed by the President.

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### 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 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.

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### 9.34 Reporting Levels

(A) The quantities fixed for the purposes of filing a report under Rule 9.33 are listed in Chapter 9, Appendix (A) below, under heading 9.34 Reporting Levels:

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### 9.35 Aggregation

In determining whether any person has exceeded the limits established by this Chapter 9, all positions held in accounts owned or controlled by such person, including those positions in accounts for which such person by power of attorney or otherwise, directly or indirectly, controls trading shall be included with the positions of such person; such limits upon positions shall apply to 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.

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### 9.36 Penalties

(A) Definition of a Speculative Limit Violation. For purposes of this Rule, the ownership or control over, as well as the carrying by a Clearing Member of, a position in excess of that allowed under Rules 9.26 - 9.35 shall be deemed a speculative position limit violation; provided, however, that a Clearing Member shall not be deemed to be in violation for carrying the position of another person for whom the Clearing Member does not exercise trading discretion unless the position exceeds the speculative position limit as of the close of trading on two successive business days. Each business day on which a customer, member, or clearing member, as the case may be, is in excess of the limits allowed under Rules 9.26 - 9.35 shall be considered a separate speculative position limit violation.

(B) First Violation. The first occurrence of a speculative position limit violation will not be deemed a rule violation, however, it will result in a warning letter being issued by the Compliance Staff to the customer (includes any Member or nonmember customer) and to the carrying Clearing Member; provided, however, that where the violation results from the aggregation of two or more customer accounts, no warning letter shall be issued to any Clearing Member that demonstrates to the satisfaction of the President or his designee that: (1) it did not carry any individual customer account which held an excessive position; (2) it took timely and appropriate remedial action upon discovery or notification of the violation (whichever occurs first); and, where applicable, (3) it employs systems and procedures reasonably calculated to discover whether positions held in two or more accounts carried by it should be aggregated under the rules of the Exchange.

(C) Subsequent Violation.

(1) By Clearing Member or Member Within 12 Months The occurrence of a second speculative position limit violation within 12 months of any previous speculative position limit violation shall be a rule violation which will subject the Member or Clearing Member, as the case may be, to an automatic fine in accordance with the fine schedule in Paragraph (D) of this Rule 9.36, and to a cease and desist order issued by the President, or his designee.

(2) By Clearing Member or Member After 12 Months

The occurrence of a second position limit violation more than 12 months after any previous speculative position limit violation may subject the Member or Clearing Member, as the case may be, to a cease and desist order issued by the President, or his designee.

(3) By Customer

The occurrence of a second speculative position limit violation by a customer will subject the customer to a warning letter issued by the Compliance Staff stating that any future violation by the customer of the speculative position limit rules may result in extraordinary sanctions, including, but not limited to, conditioning, limiting, or denying access of such customer to the market. Imposition of any such extraordinary sanction shall be preceded by a hearing conducted before a panel of the Business Conduct Committee.

(D) Automatic Fine Schedule. As used in this Sub-paragraph (D), the word "contract" shall mean any futures contract, an option contract, or a futures-equivalent position, in excess of that allowed under Rules 9.26 - 9.35.

Situation Fine Assessed Against

(1) Member account over specula- \$1,000 Member and Clearing Member speculative position limits.

(2) Non-Member Customer ac- \$1,000 Clearing Member count over speculative position limits.

(3) House account over specula- \$1,000 Clearing Member speculative position limits.

(E) Additional Penalties. Any other provision of these Rules notwithstanding, a panel of the Business Conduct Committee may take other actions or impose additional penalties against any customer, Member or Clearing Member, including, but not limited to, limiting conditioning or denying access to the market, in the following cases:

(1) Where the violation occurs in the spot month;

(2) Where the violation involves a position which is more than 150 percent of the speculative or approved hedge position limits;

(3) Where the violation is the third offense within any 12-month period;

(4) Where a Clearing Member fails to promptly comply with an instruction by the President or his designee to reduce any position; and

(5) Where the Compliance Department deems the violation to constitute a severe abuse of Exchange rules.

(F) Alternative Position Limit Violation Evaluation. If a position exceeds speculative position limits at the close of trading when evaluated using the previous day's NYMEX Risk Factors, but does not exceed speculative position limits when evaluated using the NYMEX Risk Factors as of that day's close of trading, then the position shall not be deemed to violate the speculative position limits contained herein.

(G) Multiple Clearing Members. A customer or member who maintains positions at more than one Clearing Member which taken together exceed the speculative position limit will be deemed to have waived confidentiality regarding his positions, and the Clearing Members carrying the excessive positions may be informed of the overall position and required to make reductions on a pro rata basis.

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**9.36A Appeal / Settlement**

(A) Any fine imposed in accordance with Rule 9.36 may be appealed to the Appeals Committee. To appeal a fine, a Member or Clearing Member shall file a typewritten notice of appeal with the Office of the Secretary and the Compliance Department within ten (10) business days after receipt of the notice of such fine. The notice of appeal shall set forth the grounds for the appeal and any relevant documents shall be attached. A failure to appeal within such time limit shall operate as a waiver of all rights of appeal.

(B) The Compliance Department shall deliver to the appellant and file with the Office of the Secretary within ten (10) days of the date of delivery of the Notice of Appeal, a written memorandum in response to the Notice of Appeal.

(C) The appellant may deliver to the Compliance Department and file with the Office of the Secretary, within ten (10) days from receipt of the response of the Compliance Department, a written reply memoranda. Such memoranda must be limited to the matters contained in the response of the Compliance Department.

(D) In its discretion, the Appeal Panel may decide the appeal on the basis of the notice of fine and memoranda of the Respondent and the Compliance Department or may require the parties to make oral presentation. The Appeal Panel shall issue a written decision which shall include an order to affirm, reverse or modify the terms of the summary fine issued.

(E) The Appeal Panel may approve or reject offers of settlement between the appellant and the Compliance Department which may decrease the fine or otherwise modify the terms of the summary fine issued.

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**9.37 Required Use of ATOM by Clearing Members and Floor Brokers**

(A) Each Clearing Member of the Exchange and floor broker must enter into an agreement (the "ATOM Agreement") to participate in the ATOM<sup>1</sup> system. The ATOM Agreement shall be in the form specified by the Exchange and shall be filed with the Exchange.

(B) Each Clearing Member shall enter and maintain all applicable floor brokerage rates into the ATOM system, at rates agreed to between the Clearing Member and the applicable floor broker. A Clearing Member must provide thirty (30) days prior written notice to the floor broker before any modification to a floor brokerage rate entered in the ATOM system shall become effective.

(C) Each Clearing Member and floor broker shall agree on customer identification codes and each floor broker shall enter these codes when entering clearing data for such trades for these customers.

<sup>1</sup> "ATOM" is a trademark of the Board of Trade Clearing Corporation and has been licensed for use by NYMEX.

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### 9.37A Reserved

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### 9.38 Participation by NYMEX Floor Members in Special Program for Over-the-Counter Trading with FCM Guarantee

(A) This program is effective until February 4, 2005, or until such other date as announced by the Exchange. The over-the-counter (OTC) contracts, agreements or transactions must be executed pursuant to Section 2(h)(1) of the Commodity Exchange Act (Act), which in effect provides among other things that such transactions shall be subject to CFTC anti-fraud and anti-manipulation authority and also may not be entered into on a trading facility. This program generally allows a NYMEX Floor Member to enter into trading in certain OTC contracts on the basis of a FCM guarantee without needing to satisfy the total assets requirements otherwise necessary under the Act for such trading. In order to maintain eligibility for this program, a NYMEX Floor Member must continue to satisfy all of the conditions contained in this rule.

(B) This program is available only to NYMEX Floor Members in good standing who are properly registered with the CFTC as a floor trader and/or as a floor broker. With respect to floor brokers, this program is available only for trading executed by the floor broker for his proprietary account. In addition, each NYMEX Floor Member must notify the Exchange Compliance Department prior to any participation in this program.

(C) Clearing. The NYMEX Floor Member must have obtained and at all times maintain a financial guarantee in writing as provided by the Exchange for the contracts, agreements or transactions from a NYMEX Clearing Member that:

(1) is registered with the Commission as an FCM; and,

(2) clears the OTC contracts, agreements or transactions thus guaranteed for such NYMEX Floor Member.

(D) Permissible OTC contracts, agreements or transactions shall be limited to trading in a commodity that either: (1) is listed only for clearing at NYMEX or

(2) is listed for trading and clearing at NYMEX and NYMEX's rules provide for exchanges of futures for swaps in that contract, and

(3) each OTC contract, agreement or transaction executed pursuant to this NYMEX program must be cleared at NYMEX.

(E) The NYMEX Floor Member may not enter into OTC contracts, agreements or transactions with another floor broker or floor trader as the counterparty for any contract that is listed for trading on the Exchange. However, a NYMEX Floor Member may enter into OTC contracts, agreements or transactions for such products with the Exchange in connection with options or forwards entered into through a pari-mutuel auction or, in connection with other OTC contracts, agreements or transactions, with an individual or entity that qualifies as an eligible contract participant" pursuant to the Act.

(F) All contracts transacted in connection with this rule must be submitted and accepted for clearing on the Exchange. This rule neither authorizes nor allows a NYMEX Floor Member to maintain an uncleared OTC position and such activity would constitute a violation of this rule.

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### 9.39 Special Capital Provisions for Clearing Members Guaranteeing and Clearing OTC Contracts Executed by NYMEX Floor Members

(A) Clearing Members that guarantee and clear OTC contracts, agreements or transactions pursuant to the program referenced in NYMEX Rule 9.38 must have and maintain at all times minimum working capital of at least \$20 million; provided, however, that during the first 18 months following commencement of this program, a Clearing Member must have and maintain minimum working capital of at least:

a) \$5 million during the first twelve months of the two-year period; and

b) \$10 million during the thirteenth through eighteenth months of the two-year period.

(B) If, during the 18-month period, a Clearing Member does not maintain working capital of at least \$20 million, it must further reduce its working capital in compliance with this program by 100 percent of the NYMEX margin requirements for the OTC contracts, agreements or transactions of floor brokers and floor traders that it is guaranteeing pursuant to this program. A Clearing Member must compute its working capital in accordance with Exchange rules and generally accepted accounting principles consistently applied.

(C) A Clearing Member that is subject to the provisions of paragraph (B), above shall be required to compute, on a daily basis, the total margin requirement for OTC contracts, agreements or transactions of floor brokers and floor traders that it is guaranteeing pursuant to this program. Such computations must be documented and maintained by the Clearing Member in accordance with CFTC Regulation 1.31 and be made available for inspection by Exchange representatives. Computations prepared as of financial statement filing dates must be included as part of such filing with

the Exchange.

(D) A decline in a Clearing Member's working capital resulting from the application of this Rule shall be subject to the reporting requirements set forth in Rule 9.22.

#### Clearing Rules Specifically Governing Clearing Member Obligations Regarding Clearing of Options and Forwards Executed in Exchange-Designated Pari-mutuel Auctions

Note: The following subsection is intended to group together several rules that apply specifically to obligations associated with the clearing of this category of product. Clearing Members are advised that, in addition to other Chapter 9 rules that govern their duties more generally, they may wish to also consult the following Chapter 9 rules:

Rule 9.00(D);  
Rule 9.04(I);  
Rule 9.05H); and  
Rule 9.23

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#### 9.40C Clearing Requirements for Clearing of Over-the-Counter Option Transactions in Exchange-Designated Pari-mutuel Auctions

(A) No Clearing Member shall assign an account number that would accept the entry of orders into an Exchange-designated pari-mutuel auction for or on behalf of a customer, unless such customer is first provided with an Auction Procedures document in a form approved by the Exchange and any subsequent revisions or amendments to such Auction Procedures. A Clearing Member shall obtain the agreement of each eligible customer for which it proposes to clear transactions in a pari-mutuel auction that such customer will be bound by the Auction Procedures and by applicable Exchange Rules, in connection with each such transaction. Such agreement may be obtained in any manner deemed appropriate by the Clearing Member, including without limitation through the customer's consent in its agreement with the Clearing Member to be bound by Exchange Rules, provided that such agreement can be enforced by the Exchange or an Auction Broker (as defined below) against the customer. The Auction Procedures applicable to pari-mutuel auctions and transactions are hereby incorporated into these Rules and made a part hereof to the same extent as if such Procedures were reprinted herein in their entirety.

(B) Participation in an Exchange-designated pari-mutuel auction shall be limited to "eligible customers." For purposes of this rule, eligible customers shall be limited to individuals and entities:

- (1) who qualify as an "eligible contract participant" as defined by the Commodity Exchange Act and by CFTC rule, order or other interpretation, which would include NYMEX Floor Members participating in over-the-counter markets under the conditions and requirements established by NYMEX Rule 9.38;
- (2) who agree to be bound by the NYMEX Rules and by the Auction Procedures referenced in Section (C);
- (3) who have established a relationship with a Clearing Member and for whom the Clearing Member has submitted information to the Exchange as provided in Section (C); and
- (4) where the offer and sale of products listed in such auction to such individual or entity and the participation in such auction market by such individual or entity does not violate any law applicable to such individual or entity.

Clearing Members may only authorize customer accounts for Exchange-designated pari-mutuel auction for customers.

(C) Before authorizing any account of an eligible customer to trade in an Exchange-designated pari-mutuel auction, a Clearing Member must first submit to the Exchange in the manner provided by the Exchange the following information along with other related information that may be required by the Exchange from time to time:

- (1) the account number of the eligible customer;
- (2) the commodity or commodities that the Clearing Member has authorized the eligible customer to trade on the Exchange-designated pari-mutuel auction; and
- (3) the maximum financial exposure that the Clearing Member is willing to accept for trading by the eligible customer on the Exchange-designated pari-mutuel auction. The limit set by the Clearing Member for the Exchange-designated pari-mutuel auction shall be unique to that auction and thus shall operate separately from the risk limits that may be applicable to that account number in connection with other Exchange services.

In addition, by agreeing to clear transactions in a pari-mutuel auction for eligible customers, and by establishing Risk Allocation Values for orders submitted by that customer, in accordance with paragraph (E) below, a Clearing Member will be deemed to represent and warrant that each customer for which it agrees to clear transactions is an eligible customer under these Rules and that such customer has been provided with the Auction Procedures (including any revisions or amendments) and has agreed to be bound by the Auction Procedures and these Rules. Each Clearing Member will indemnify and hold harmless the Exchange from any claims, damages, losses, costs or expenses whatsoever incurred by NYMEX or any Auction Broker arising out of any representation or warranty made by Clearing Member in this Clause (C) not being true or accurate (including any claim that an eligible customer is not bound by any Supplemental Cleared OTC Contract (defined in Section (F) below)).

(D) Pari-mutuel transactions will be entered into through separate auctions, as set forth in the Auction Procedures. Upon the completion of an auction, each eligible customer with an executed transaction will be deemed to have entered into an over-the-counter transaction with the Exchange on the terms, and in the amount and at the price, specified with respect to the particular auction, without any further action by Exchange, the Clearing Member or the eligible customer. Immediately thereafter, the over-the-counter transaction will be given up for clearing to the Clearing Member designated by the eligible customer and shall be extinguished and replaced, by a cleared over-the-counter transaction between the Exchange and the applicable Clearing Member without any further action by the eligible customer or the Clearing Member pursuant to product specifications for such product as provided by Exchange rule ("Cleared OTC Contract").

(E) In addition, Clearing Members must require their eligible customers to designate at least one firm through which the customer's orders will be submitted into the Exchange-designated pari-mutuel auction ("Auction Broker"). The duties of an Auction Broker will include application of the authorizations and risk limits (set by a Clearing Member pursuant to Section (C)) (hereafter "Risk Data") to the orders received from the eligible customers of the Clearing Member.

(F) A Clearing Member agrees unconditionally to accept and to clear all trades executed for that account for which it has input information pursuant to Section (C), regardless of malfunction or non-operation of the Exchange's contracts order filter functionality, the Risk Allocation Value order filter functionality, and/or the position limit functionality, provided however that in the event of any manner of misapplication or nonapplication of the Risk Data by an Auction Broker that results in the execution of a transaction above the risk limit specified by the Clearing Member for an eligible customer, the Clearing Member shall be required to clear only that portion of the transaction that is within or up to such risk limit and the excess of the transaction size above such risk limit shall

result in the execution of a cleared contract (a "Supplemental Cleared OTC Contract") on behalf of the relevant Auction Broker, in the amount of such excess, which shall be cleared by the Auction Broker's Clearing Member. The eligible customer that entered the order in excess of its credit limit shall reimburse the Auction Broker for any amounts that the Auction Broker is required to pay under the Supplemental Cleared OTC Contract. Conversely, the Auction Broker will pay to the eligible customer any amount that the Auction Broker receives under such Supplemental Cleared OTC Contract. A Clearing Member shall be responsible for maintaining and updating as appropriate the Risk Data on an ongoing basis and shall submit any such updates to the Risk Data pursuant to the procedures and deadlines as established by the Exchange.

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**9.41 Special Capital Provisions for Clearing Members Guaranteeing and Clearing OTC Contracts Executed by NYMEX Floor Members**

(A) Clearing Members that guarantee and clear OTC contracts, agreements or transactions pursuant to the program referenced in NYMEX Rule 6.21G must have and maintain at all times minimum working capital of at least \$20 million

(B) A decline in a Clearing Member's working capital resulting from the application of this Rule shall be subject to the reporting requirements set forth in Rule 9.22.

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**Appendix A Position limits, accountability levels and reportable levels**

**Appendix (A), Chapter 9**

Contract Name	Rule Chapter	Commodity Code	All/ Any One Month Account-ability Level Rule 9.26	Expiration Month Limit Rule 9.27	Expiration Account-ability Level Pen-ultimate Contracts* Rule 9.27A	Expiration Account-ability Level Last Day Contracts* Rule 9.27A	Reporting Level Rule 9.34	Aggregate Into (1)	Aggregate Into (2)
Gulf Coast Heating Oil Calendar Swap Contract	527	GP	10,000	1,000			25	GP	
Gulf Coast Gasoline Calendar Swap Contract	526	GS	10,000	1,000			25	GS	
Gulf Coast Gasoline vs. Gulf Coast Heating Oil Spread Swap Contract	607	MD	10,000 /10,000	1,000 / 1,000			25	GS	GP
Gulf Coast No. 6 Fuel Oil 3.0% Sulfur Swap Contract	612	MF	10,000	1,000			25	MF	
Gulf Coast Jet Fuel Calendar Swap Contract	528	GE	10,000	1,000			25	GE	
<b>New York Harbor</b>									
New York Harbor No. 2 Heating Oil	150	HO	7,000	1,000			250	HO	
Heating Oil Option Contract	320	OH	20,000	1,000			250	HO	
Heating Oil Calendar Spread Options Contract	392	FA, FB, FC, FM, FZ,	7,000	1,000			150	HO	
Heating Oil Financial Futures Contract	825	BH	7,000		1,000		100	BH	
New York Harbor Heating Oil Look-Alike Option	551	LB	7,000		1,000		100	BH	
NYMEX miNY™ Heating Oil Futures Contract	404	QH	7,000		1,000		250	BH	
RBOB vs. Heating Oil Swap Contract	558	RH	7,000/7,000	1,000/1,000			25	RB	HO

Heating Oil Arb Swap: NYMEX Heating Oil v. Rdam Gasoil Contract	725	HA	7,000/7,000	1,000/1,000			25	HO	GX
Heating Oil Average Price Option	321	AT	7,000	1,000			150	HO	
New York Harbor Heating Oil Calendar Swap Contract	603	MP	7,000	1,000			250	HO	
NYMEX No. 2 Up-Down Spread Calendar Swap (Platts) Contract	515	UT	10,000/7,000	1,000/1,000			25	GP	HO
New York Harbor Unleaded Gasoline vs. New York Harbor Heating Oil Swap Contract	604	MR	7,000/7,000	250/1,000			25	HU	HO
Los Angeles Jet Fuel vs. New York Harbor No. 2 Heating Oil Spread Swap Contract	609	MQ	10,000/7,000	1,000/1,000			25	MQ	HO
New York Harbor LS Diesel vs. New York Harbor No. 2 Heating Oil Spread Swap Contract	606	MK	10,000/7,000	1,000/1000			25	MK	HO
Gulf Coast Jet vs. New York Harbor No. 2 Heating Oil Spread Swap Contract	608	ME	10,000/7,000	1,000/1,000			25	GE	HO
New York Harbor Gasoline Blendstock (RBOB) Futures Contract	191	RB	7,000	1,000			150	RB	
RBOB Calander Swap	556	RL	7,000	1,000			25	RB	
RBOB Up-Down Calendar Swap Contract	557	RV	7,000/7,000	1,000/1,000			25	RB	GS
New York Harbor Gasoline Blendstock Option Contract	335	OB	7,000	1,000			150	RB	
New York Harbor Gasoline Blendstock (RBOB) Calendar Spread Option	388	ZA, ZB, ZC, ZM	7,000	1,000			150	RB	
RBOB Gasoline Financial Contract	555	RT	7,000		1,000		25	RT	
NYMEX miNY™ Gasoline Futures Contract	403	QU	7,000		1,000		150	RT	
New York Harbor Gasoline Blendstock "Look-Alike" Option	385	RF	7,000		1,000		150	RT	
New York Harbor Gasoline Blendstock (RBOB) Average Price Option	386	RA	7,000		1,000		150	RT	
New York Harbor Conv. Gasoline vs. NYMEX RBOB Gasoline Swap Contract	545	RZ	7,000/7,000		1,000/1,000		150	RT	RZ
Petroleum Product Futures Contracts – New York Harbor	190	HU	7,000	250			150	HU	
New York Harbor Unleaded Gasoline Look-Alike Option	552	LG	7,000		250		100	LG	
New York Harbor Conv. Gasoline vs. New York Harbor Unleaded Gasoline Spread Swap Contract	605	MJ	10,000/10,000	1,000/250			150	MJ	HU

New York Harbor Gasoline Calendar Swap Contract	602	MS	7,000	250			150	HU	
Unleaded Gasoline Average Price Option	331	AU	7,000	250			150	HU	
NYMEX Unl 87 Up-Down Spread Calendar Swap (Platts) Contract	514	UU	7,000/10,000	250/1,000			25	HU	GS
NYMEX Unleaded Gasoline Option Contract	330	GO	20,000	250			150	HU	
Unleaded Gasoline Calendar Spread Options Contract	393	YA, YB, YC, YM, YZ	7,000	250			150	HU	
Los Angeles CARB Gasoline vs. New York Harbor Gasoline Swap Contract	611	MI	10,000/7,000	1,000/250			150	MH	HU
New York Harbor Residual Fuel 1.0% Sulfur Swap Contract	614	MM	10,000	1,000			25	MM	
<b>West Coast</b>									
Los Angeles CARB Gasoline Swap Contract	610	MH	10,000	1,000			150	MH	
<b>Cushing, Oklahoma</b>									
Light "Sweet" Crude Oil Futures Contract	200	CL	20,000	3,000			350	CL	
Crude Oil Option Contract	310	LO	40,000	3,000			350	CL	
NYMEX WTI Average Price Option	341	AO	20,000	3,000			350	CL	
NYMEX WTI Calendar Swap Contract	510	CS	20,000	3,000			350	CL	
Crude Oil Calendar Spread Options Contract	390	WA, WB, WC, WM, WZ	20,000	3,000			350	CL	
Crude Oil Daily Option	833	CD	NA	3,000			NA	CL	
WTI Crude Oil Financial Contract	691	WS	20,000		2,000		25	WS	
WTI Crude Oil Look-Alike Option	550	LC	20,000		2,000		100	WS	
NYMEX Light Sweet Crude Oil miNY™ Futures Contract	401	QM	20,000		2,000		350	WS	
WTI-Bow River Swap Contract	601	MA	10,000/20,000	1,000/3,000			25	MA	CL
WTI-Brent (ICE) Bullet Swap Contract	693	BY	20,000/20,000	3,000/2,000			25	CL	BB
WTI-Brent (ICE) Calendar Swap	694	BK	20,000/20,000	3,000/2,000			25	CL	BB
WTI-Brent Crude Oil Spread Calendar Swap Futures	649	SB	20,000/20,000	3,000/2,000			350	CL	BN

WTI-Brent Crude Oil Spread Option Contract	312	BW	20,000/20,000	3,000/2,000		50	CL	BN
WTI-Brent (ICE) Calendar Swap	694	CY	20,000/20,000	3,000/2,000		25	CL	BB
RBOB Crack Spread Swap	559	RM	7,000/20,000	1,000/3,000		25	RB	CL
Unleaded Gasoline-Crude Oil Spread Option Contract	340	UC	20,000/7,000	3,000/250		25	CL	HU
NYMEX New York Harbor Unleaded Gasoline Crack Calendar Swap Contract	522	UK	20,000/7,000	3,000/250		25	CL	HU
NYMEX U.S. Gulf Coast Unl 87 Crack Spread Calendar Swap (Platts) Contract	512	RU	20,000/10,000	3,000/1,000		100	CL	GS
NYMEX U.S. Gulf Coast No. 2 Crack Spread Calendar Swap (Platts) Contract	513	RD	20,000/10,000	3,000/1,000		100	CL	GP
New York Harbor Gasoline Blendstock (RBOB)-Crude Oil Spread Option	387	RX	20,000/7,000	3,000/1,000		25	CL	RB
NYMEX New York Harbor Heating Oil Crack Calendar Swap Contract	523	HK	20,000/7,000	3,000/1,000		25	CL	HO
Heating Oil-Crude Oil Spread Option Contract	350	HC	20,000/7,000	3,000/1,000		25	CL	HO
Gulf Coast No. 6 Fuel Oil Crack Swap Contract	613	MG	10,000/20,000	1,000/3,000		25	MF	CL
New York Harbor Residual Fuel Crack Swap Contract	615	ML	10,000/20,000	1,000/3,000		25	MM	CL
<b>EUROPE</b>								
<b>Baltic</b>								
NYMEX REBCO Futures Contract	206	RE	10,000	730		25	RE	
<b>Northwest Europe</b>								
NYMEX Brent Bullet Swap Contract	698	BN	20,000	2,000		25	BN	
Brent Crude Oil Calendar Swap Futures	648	SA	20,000	2,000		350	BN	
Brent Financial Contract	692	BB	20,000	2,000		25	BB	
Dated Brent Calendar Swap Futures Contract	647	UB	5,000	1,000		25	UB	
Brent-Dubai Swap Contract	697	DB	20,000/10,000	2,000/250		25	BB	DC
Dated to Frontline Brent Swap	695	FY	5,000/20,000	1,000/2,000		25	UB	BB
European Gasoil Crack Spread Swap	710	GZ	20,000/7,000	2,000/1,000		25	BB	GX

European Platts Gasoline MED Crack Spread Swap	712	EP	20,000/1,500	2,000/500			25	BB	EU
European Argus Gasoline Crack Spread Swap Contract	711	RG	20,000/7,000	2,000/1,000			25	BB	AR
European Naphtha Crack Spread Swap	713	EN	20,000/1,500	2,000/150			25	BB	UN
1% Fuel Oil NWE Crack Spread Swap Contract	727	FI	20,000/1,500	2,000/150			25	BB	UF
3.5% Fuel Oil Rdam Crack Spread Swap Contract	726	FO	20,000/1,500	2,000/150			25	BB	UV
3.5% Fuel Oil FOB MED Crack Spread Swap Contract	735	FL	20,000/1,500	2,000/150			25	BB	UI
European Gasoil (ICE) Swap Contract	728	GX	7,000	1,000			25	GX	
European Gasoil 0.2 CIF NWE v. Gasoil Futures Swap	715	EC	7,000/1,500	1,000/150			25	GX	UE
European Gasoil 0.2 Rdam Barges v. Gasoil Futures Swap	714	EI	7,000/1,500	1,000/150			25	GX	UG
European Gasoil 10 PPM Rdam Barges vs. Gasoil Futures Swap Contract	718	ET	7,000/5,000	1,000/500			25	GX	GT
European ULSD 50PPM CIF NWE v. Gasoil Futures Swap	719	EY	7,000/5,000	1,000/500			25	GX	ES
European Gasoil 0.2 CIF MED v. Gasoil Futures Swap Contract	716	EX	7,000/5,000	1,000/500			25	GX	GG
European Gasoil 0.2 FOB MED v. Gasoil Futures Swap Contract	717	EF	7,000/1,500	1,000/150			25	GX	UQ
European ULSD 50 PPM CIF MED v. Gasoil Futures Swap Contract	720	EE	7,000/5,000	1,000/500			25	GX	EH
European ULSD 50 PPM FOB MED v. Gasoil Futures Swap Contract	721	EO	7,000/5,000	1,000/500			25	GX	EL
Jet CIF NWE vs. Gasoil Futures Swap Contract	722	JC	7,000/1,500	1,000/150			25	GX	UJ
Jet Rdam Barges v. Gasoil Futures Swap Contract	723	JR	7,000/1,500	1,000/150			25	GX	UR
Singapore Gasoil vs. Rdam Gasoil Swap Contract	724	GA	7,000/1,500	1,000/500			25	GX	SG
European Gasoil 0.2 NWE (Northwest Europe) Calendar Swap Contract	654	UE	1,500	150			25	UE	

European Gasoil 0.2 Rotterdam Calendar Swap Contract	653	UG	1,500	150			25	UG	
European Gasoil 10 PPM Rdam Barges Swap Contract	730	GT	5,000	500			25	GT	
European ULSD 50PPM CIF NWE Swap Contract	731	ES	5,000	500			25	ES	
European ULSD Diesel NWE (Northwest Europe) Calendar Swap Contract	657	UL	1,500	150			25	UL	
European ULSD Diesel Rotterdam Calendar Swap Contract	656	UP	1,500	150			25	UP	
Northwest Europe Gasoline (Argus) Swap Contract	664	AR	1,500	500			25	AR	
European Naphtha Calendar Swap Contract	650	UN	1,500	150			25	UN	
European 1% Fuel Oil NWE (Northwest Europe) Calendar Swap Contract	658	UF	1,500	150			25	UF	
European 1% Fuel Oil Rotterdam Calendar Swap Contract	659	UH	1,500	150			25	UH	
Northwest Europe High-Low Fuel Oil Spread Swap Contract	665	FS	1,500/1,500	150/150			25	UF	UV
European 3.5% Fuel Oil Rotterdam Calendar Swap Contract	660	UV	1,500	150			25	UV	
3.5% Fuel Oil Rdam v. 3.5% FOB MED Spread Swap	734	FK	1,500/1,500	150/150			25	UV	UI
East-West Fuel Oil Spread Swap Contract	666	EW	1,500/1,500	150/150			25	UA	UV
European Jet Kerosene NWE (Northwest Europe) Calendar Swap Contract	651	UJ	1,500	150			25	UJ	
European Jet Kerosene Rotterdam Calendar Swap Contract	652	UR	1,500	150			25	JR	
<b>MEDITERRANEAN</b>									
European Gasoil 0.2 MED (Mediterranean) Calendar Swap Contract	655	UQ	1,500	150			25	UQ	
European Gasoil 0.2 CIF MED Swap Contract	729	GG	5,000	500			25	GG	
European ULSD 50 PPM CIF MED Swap Contract	732	EH	5,000	500			25	EH	
European ULSD 50 PPM FOB MED Swap Contract	733	EL	5,000	500			25	EL	
European MED Gasoline (Platts) Swap Contract	663	EU	1,500	500			25	EU	

European 3.5% Fuel Oil MED (Mediterranean) Calendar Swap Contract	661	UI	1,500	150			25	UI	
<b>MIDDLE EAST</b>									
NYMEX Dubai Crude Oil Calendar Swap (Platts) Contract	511	DC	10,000	1,000			25	DC	
<b>ASIA/PACIFIC</b>									
Singapore 380 cst Fuel Oil Futures Contract	675	HZ	7,000	1,000			25	HZ	
Singapore Gasoil Swap Contract	669	SG	1,500	500			25	SG	
Singapore Jet Kero vs. Gasoil Spread Swap Contract	672	RK	1,500/1,500	500/500			25	KS	SG
Singapore Naphtha Swap Contract	671	SP	1,500	500			25	SP	
Singapore 380cst Fuel Oil Swap Contract	668	SE	1,500	500			25	SE	
Singapore 180cst vs. 380cst Fuel Oil Spread Swap Contract	667	SD	1,500/1,500	500/500			25	UA	SE
European Singapore Fuel Oil 180cst Calendar Swap Contract	662	UA	1,500	150			25	UA	
Singapore Jet Kerosene Swap Contract	670	KS	1,500	500			25	KS	
<b>Vessel Freight</b>									
Freight Route TC1 Swap Futures Contract	680	TG	10,000	1,000			25	TG	
Freight Route TC2 Swap Futures Contract	683	TM	5,000	500			25	TM	
Freight Route TD3 Swap Futures Contract	684	TL	10,000	2,500			25	TL	
Freight Route TC4 Swap Futures Contract	681	TJ	5,000	500			25	TJ	
Freight Route TC5 Swap Futures Contract	682	TH	10,000	1,000			25	TH	
Freight Route TD5 Swap Futures Contract	685	TI	10,000	2,500			25	TI	
Freight Route TD7 Swap Futures Contract	686	TK	10,000	1,000			25	TK	
Freight Route TD9 Swap Futures Contract	687	TN	10,000	1,000			25	TN	
Freight Route TD10D Swap Futures Contract	688	TO	10,000	1,000			25	TO	
<b>Metals</b>									
<b>USA</b>									

COMEX Division - Aluminum Futures Rules	123	AL	6,000	350			25	AL	
COMEX Division - Aluminum Futures Options Rules	124	OA					25	AL	
COMEX Division - Copper Contract Rules	111	HG	5,000	400			25	HG	
COMEX Division - Grade 1 Copper Futures Options Rules	117	HX					25	HG	
COMEX miNY™ Copper Futures	913	QC	5,000	400			25	HG	
COMEX Division - Gold Rules	113	GC	6,000	3,000			200	GC	
COMEX Division - Gold Futures Options Rules	115	OG					200	GC	
COMEX miNY™ Gold Futures	911	QO	6,000	3,000			200	GC	
COMEX Division - Silver Rules	112	SI	6,000	1,500			150	SI	
COMEX Division - Silver Futures Options Rules	116	SO					150	SI	
COMEX miNY™ Silver Future	912	QI	6,000	1,500			150	SI	
<b>Platinum Futures Contract</b>	90	PL	1,500	200			50	PL	
NYMEX Platinum Option Contract	360	PO	20,000	200			50	PL	
NYMEX miNY™ Platinum Futures Contract	405	PQ	1,500	200			50	PL	
Palladium Futures Contract	100	PA	1,000	650			25	PA	
NYMEX Palladium Futures Contract	406	LQ	1,000	650			25	PA	
<b>EUROPE</b>									
COMEX London Primary Aluminum Futures	918	LA	6,000	1,500			25	LA	
COMEX London Copper Grade A Futures	917	LK	5,000	1,500			25	LK	
COMEX London SHG Zinc Futures	919	LZ	4,000	1,500			25	LZ	
<b>ASIA</b>									
COMEX Asian Gold Futures	914	QS	6,000	3,000			200	GC	
NYMEX Asian Palladium Futures	916	QT	1,000	650			50	PA	

NYMEX Asian Platinum Futures	915	QR	1,500	200			200	PL	
<b>Coal and Emissions</b>									
Banked NYMEX NOX Emissions Allowance Futures Contract	800	RO	2,500	200			25	RO	
One-Year Forward NYMEX NOX Emissions Allowance Futures Contract	801	RP	2,500	200			25	RO	
Two-Year Forward NYMEX NOX Emissions Allowance Futures Contract	802	RQ	2,500	200			25	RO	
Three-Year Forward NYMEX NOX Emissions Allowance Futures Contract	803	RR	2,500	200			25	RO	
NYMEX NOX Emissions Allowance Futures Contract	783	RN	2,500	200			25	RN	
NYMEX SO2 Emissions Allowance Futures Contract	782	RS	2,500	200			25	RS	
Central Appalachian Coal Futures Contract	260	QL	5,000	200			25	QL	
NYMEX CSX COAL Swap (Platts OTC Broker Index) Contract	261	QX	5,000	200			25	QX	
NYMEX Powder River Basin Coal Swap (Platts OTC Broker Index) Contract	262	QP	5,000	200			25	QP	
<b>Natural Gas</b>									
Natural Gas Futures Contract	220	NG	12,000	1,000			175	NG	
NYMEX Natural Gas Option Contract	370	ON	20,000	1,000			175	NG	
Natural Gas Calendar Spread Options Contract	391	IA, IB, IC, IE, IM, IZ	12,000	1,000			175	NG	
Natural Gas Daily Option	832	KD	NA	1,000			NA	HH	
Henry Hub Penultimate Financial Futures Contract	824	HP	12,000		1,000		100	HP	
Natural Gas Look-Alike Option	560	LN	12,000		1,000		100	HP	
Henry Hub Natural Gas Penultimate Swap Futures Contract	529	NP	12,000		1,000		100	HP	
NYMEX Natural Gas miNY™ Futures Contract	402	QG	12,000		1,000		175	HP	
Henry Hub Financial Last Day Futures Contract	823	HH	12,000			1,000	100	HH	
Henry Hub Swap Futures Contract	508	NN	12,000			1,000	175	HH	

<b>Appalachia</b>									
Dominion Basis Swap (Platts IFERC) Contract	632	PG	10,000	2,000			25	PG	
Dominion Natural Gas Index Contract (Platt Gas Daily/Platts IFERC)	794	IH	10,000	2,000			25	IH	
Dominion, South Point Natural Gas Swing Contract (Platts Gas Daily)	784	SH	10,000	2,000			25	SH	
<b>Canadian</b>									
NYMEX AECO/NIT Basis Swap (NGX/CGPR) Contract	516	NA	10,000	2,000			25	NA	
Dawn Natural Gas Basis Contract (Platts IFERC)	808	DW	10,000	2,000			25	DW	
Dawn Natural Gas Swing Contract (Platts Gas Daily)	818	OW	10,000	2,000			25	OW	
Dawn Natural Gas Index Contract (Platt Gas Daily/Platts IFERC)	811	IO	10,000	2,000			25	IO	
NYMEX Sumas Basis Swap (Platts IFERC) Contract	628	NK	10,000	1,000			25	NK	
Sumas Natural Gas Index Contract (Platt Gas Daily/Platts IFERC)	797	IU	10,000	1,000			25	IU	
Sumas Natural Gas Swing Contract (Platts Gas Daily)	789	SU	10,000	1,000			25	SU	
<b>Citygates</b>									
NYMEX Chicago Basis Swap (NGI) Contract	517	NB	10,000	2,000			175	NB	
Chicago Natural Gas Index Contract (Platts Gas Daily / NGI)	700	IS	10,000	2,000			25	IS	
Chicago Natural Gas Swing Contract (Platts Gas Daily)	750	SS	10,000	2,000			25	SS	
MichCon Basis Swap (Platts IFERC) Contract	619	NF	10,000	500			175	NF	
PG&E Citygate Basis Swap (NGI) Contract	624	PC	10,000	2,000			175	PC	
PG&E Citygate Natural Gas Index Contract (Platt Gas Daily/NGI)	792	IK	10,000	2,000			25	IK	
PG&E Citygate Natural Gas Swing Contract (Platts Gas Daily)	786	SK	10,000	2,000			25	SK	

M-3 Basis Swap (Platts IFERC) Contract	621	NX	10,000	1,500			25	NX	
TETCO M-3 Natural Gas Index Contract (Platt Gas Daily/Platts IFERC)	798	IX	10,000	1,500			25	IX	
TETCO M-3 Natural Gas Swing Contract (Platts Gas Daily)	790	SX	10,000	1,500			25	SX	
NYMEX Transco Zone 6 Basis Swap (Platts IFERC) Contract	521	NZ	10,000	1,500			25	NZ	
Transco, Zone 6 Natural Gas Index Contract (Platt Gas Daily/Platts IFERC)	799	IT	10,000	1,500			25	IT	
Transco, Zone 6 Natural Gas Swing Contract (Platts Gas Daily)	791	ST	10,000	1,500			25	ST	
<b>East Houston - Katy</b>									
NYMEX Houston Ship Channel Basis Swap (Platts IFERC) Contract	518	NH	10,000	2,000			25	NH	
Houston Ship Channel Natural Gas Index Contract (Platts Gas Daily / Platts IFERC)	703	IP	10,000	2,000			25	IP	
Houston Ship Channel Natural Gas Swing Contract (Platts Gas Daily)	753	SM	10,000	2,000			25	SM	
<b>East Texas - North Louisiana</b>									
NGPL Texok Basis Swap (Platts IFERC) Contract	625	PD	10,000	1,000			175	PD	
NGPL TexOk Natural Gas Swing Contract (Platts Gas Daily)	821	OX	10,000	1,000			25	OX	
NGPL TexOk Natural Gas Index (Platt Gas Daily/Platts IFERC) Contract	814	OI	10,000	1,000			25	OI	
<b>Oklahoma</b>									
ANR OK Basis Swap (Platts IFERC) Contract	627	NE	10,000	500			175	NE	
ANR Oklahoma Natural Gas Swing Contract (Platts Gas Daily)	816	SQ	10,000	500			25	SQ	
ANR Oklahoma Natural Gas Index Contract (Platt Gas Daily/Platts IFERC)	809	IQ	10,000	500			25	IQ	
CenterPoint Natural Gas Basis Contract (Platts IFERC)	807	PW	10,000	2,000			25	PW	
CenterPoint Natural Gas Swing Contract (Platts Gas Daily)	817	VX	10,000	2,000			25	VX	
CenterPoint Natural Gas Index Contract (Platt Gas Daily/Platts IFERC)	810	II	10,000	2,000			25	II	

NGPL Mid-Con Basis Swap (Platts IFERC) Contract	629	NL	10,000	500			175	NL	
NGPL MidCon Natural Gas Swing Contract (Platts Gas Daily)	820	PX	10,000	500			25	PX	
NGPL MidCon Natural Gas Index Contract (Platt Gas Daily/Platts IFERC)	813	IW	10,000	500			25	IW	
NYMEX Panhandle Basis Swap (Platts IFERC) Contract	525	PH	10,000	2,000			175	PH	
Panhandle Natural Gas Index Contract (Platts Gas Daily / Platts IFERC)	704	IV	10,000	2,000			25	IV	
Panhandle Natural Gas Swing Contract (Platts Gas Daily)	754	SV	10,000	2,000			25	SV	
<b>Louisiana - Onshore South</b>									
Henry Hub Natural Gas Index Contract (Platts Gas Daily / Platts IFERC)	702	IN	10,000	2,000			25	IN	
Henry Hub Natural Gas Swing Contract (Platts Gas Daily)	752	SN	10,000	2,000			25	SN	
NYMEX Henry Hub Basis Swap (Platts IFERC) Contract	509	HB	12,000	2,000			175	HB	
ANR Louisiana Basis (Platts IFERC) Futures Contract	767	ND	10,000	1,000			25	ND	
Columbia Gulf Louisiana Basis Swap (Platts IFERC) Contract	638	GL	10,000	500			175	GL	
FGT Zone 3 Basis (Platts IFERC) Futures Contract	806	FP	10,000	500			25	FP	
NGPL LA Basis Swap (Platts IFERC) Contract	626	NY	10,000	500			175	NY	
Sonat Basis (Platts IFERC) Futures Contract	804	SZ	10,000	500			25	SZ	
TCO Basis Swap (Platts IFERC) Contract	622	TC	10,000	2,500			175	TC	
Tennessee 500 Leg Basis (Platts IFERC) Futures Contract	770	NM	10,000	1,500			25	NM	

Tennessee Zone 0 Basis (Platts IFERC) Futures Contract	771	NQ	10,000	1,500			25	NQ	
TETCO ELA Basis Swap (Platts IFERC) Contract	640	TE	10,000	500			175	TE	
Texas Gas, Zone SL Basis (Platts IFERC) Futures Contract	772	TB	10,000	1,000			25	TB	
Transco Zone 3 Basis Swap (Platts IFERC) Contract	639	CZ	10,000	1,000			175	CZ	
Trunkline, LA Basis (Platts IFERC) Futures Contract	773	NU	10,000	1,000			25	NU	
<b>Mississippi - Alabama</b>									
Transco Zone 4 Basis (Platts IFERC) Futures Contract	805	TR	10,000	500			25	TR	
<b>New Mexico - San Juan Basis</b>									
NYMEX San Juan Basis Swap (Platts IFERC) Contract	519	NJ	10,000	2,000			25	NJ	
San Juan Natural Gas Index Contract (Platt Gas Daily/Platts IFERC)	796	IJ	10,000	2,000			25	IJ	
San Juan Natural Gas Swing Contract (Platts Gas Daily)	787	SJ	10,000	2,000			25	SJ	
<b>Permian Basin</b>									
Permian Basis Swap (Platts IFERC) Contract	620	PM	10,000	2,000			175	PM	
Permian Natural Gas Index Contract (Platts Gas Daily / Platts IFERC)	701	IL	10,000	2,000			25	IL	
Permian Natural Gas Swing Contract (Platts Gas Daily)	751	SL	10,000	2,000			25	SL	
NYMEX Waha Basis Swap (Platts IFERC) Futures Contract	634	NW	10,000	2,000			175	NW	
Waha Natural Gas Index Contract (Platts Gas Daily / Platts IFERC)	705	IY	10,000	2,000			25	IY	
Waha Natural Gas Swing Contract (Platts Gas Daily)	755	SY	10,000	2,000			25	SY	
<b>Rockies</b>									

Kern Opal Natural Gas Swing Contract (Platts Gas Daily)	785	SR	10,000	2,000			25	SR	
Kern River Basis (Platts IFERC) Futures Contract	768	NV	10,000	1,000			25	NV	
NYMEX CIG Rockies Basis Swap (Platts IFERC) Futures Contract	633	CI	10,000	1,000			25	CI	
Questar Basis (Platts IFERC) Futures Contract	769	TA	10,000	1,000			25	TA	
NYMEX Rockies Basis Swap (Platts IFERC) Contract	524	NR	10,000	2,000			25	NR	
Rockies Natural Gas Index Contract (Platt Gas Daily/Platts IFERC)	795	IR	10,000	2,000			25	IR	
<b>South- Corpus Christi</b>									
TETCO STX Basis Swap (Platts IFERC) Contract	641	TX	10,000	1,000			175	TX	
Others									
Demarc Basis Swap (Platts IFERC) Contract	630	PE	10,000	1,000			175	PE	
Demarc Natural Gas Swing Contract (Platts Gas Daily)	819	DT	10,000	1,000			25	DT	
Demarc Natural Gas Index Contract (Platt Gas Daily/Platts IFERC)	812	DI	10,000	1,000			25	DI	
Malin Basis Swap (NGI) Contract	623	PB	10,000	2,000			25	PB	
NYMEX SoCal Basis Swap (NGI) Contract	520	NS	10,000	2,000			25	NS	
SoCal Natural Gas Index Contract (Platt Gas Daily/NGI)	793	IF	10,000	2,000			25	IF	
SoCal Natural Gas Swing Contract (Platts Gas Daily)	788	SF	10,000	2,000			25	SF	
Ventura Basis Swap (Platts IFERC) Contract	631	PF	10,000	2,000			175	PF	
Ventura Natural Gas Swing Contract (Platts Gas Daily)	822	VS	10,000	2,000			25	VS	
Ventura Natural Gas Index Contract (Platt Gas Daily/Platts IFERC)	815	VI	10,000	2,000			25	VI	

<b>Propane</b>									
Liquefied Propane Gas Futures Contract	230	PN	1,500	250			25	PN	
<b>Electricity</b>									
ERCOT Houston Peak Swap (Platts Megawatt Daily) Contract	826	HT	5,000	500			25	HT	
ERCOT Houston Calendar Day Peak Swap (Platts Megawatt Daily) Contract	826a	HE	5,000	500			25	HT	
ERCOT Houston MCPE Trading Hub Peak Swap Contract	829	HN	5,000	500			25	HN	
ERCOT Houston MCPE Trading Hub Calendar Day Peak Swap Contract	829a	HY	5,000	500			25	HN	
ERCOT North Peak Swap (Platts Megawatt Daily) Contract	827	MT	5,000	500			25	MT	
ERCOT North Calendar Day Peak Swap (Platts Megawatt Daily) Contract	827a	MC	5,000	500			25	MT	
ERCOT North MCPE Trading Hub Peak Swap Contract	830	MN	5,000	500			25	MN	
ERCOT North MCPE Trading Hub Calendar Day Peak Swap Contract	830a	MY	5,000	500			25	MN	
ERCOT Seller's Choice Peak Swap (Platts Megawatt Daily) Contract	828	VT	5,000	500			25	VT	
ERCOT Seller's Choice Calendar Day Peak Swap (Platts Megawatt Daily) Contract	828a	VC	5,000	500			25	VT	
ERCOT Hub Average MCPE Trading Hub Peak Swap Contract	831	VN	5,000	500			25	VN	
NYMEX ERCOT Hub Average MCPE Trading Hub Calendar Day Peak Swap Contract	831a	VY	5,000	500			25	VN	
NYMEX PJM (PJM Interconnection, LLC) Calendar-Month Off-Peak LMP Swap Contract	635a	JP	5,000	500			25	JP	
NYMEX PJM Calendar-Month LMP Swap (PJM Interconnection, LLC) Futures Contract	635	JM	5,000	3,000			1	JM	
NYMEX PJM Calendar-Day LMP Swap (PJM Interconnection, LLC) Futures Contract	637	JD	5,000	3,000			1	JM	

PJM Calendar-Month LMP Swap Option	380	JO	5,000	3,000			1	JM	
NYMEX PJM Calendar-Week LMP Swap (PJM Interconnection, LLC) Futures Contract	636	JW	5,000	3,000			1	JM	
NYMEX NYISO Zone A Calendar Day Peak LBMP Swap Contract	616b	AN	10,000/10,000	1,000/1,000			25	AN	KA
NYMEX NYISO Zone A Off-Peak LBMP Swap Contract	616a	KB	5,000	500			25	KB	
NYMEX NYISO Zone G Calendar Day Peak LBMP Swap Contract	617b	GN	10,000/10,000	1,000/1,000			25	GN	KG
NYMEX NYISO Zone G Off-Peak LBMP Swap Contract	617a	KH	5,000	500			25		
NYMEX NYISO Zone J Calendar Day Peak LBMP Swap Contract	618b	JN	10,000/10,000	1,000/1,000			25	JN	KJ
NYMEX NYISO Zone J Off-Peak LBMP Swap Contract	618a	KK	5,000	500			25	KK	
NYMEX Michigan Hub Calendar-Month LMP Swap Contract	776	HM	5,000	500			25	HM	
NYMEX Michigan Hub Off-Peak LMP Swap Contract	776a	HJ	5,000	500			25	HJ	
NYMEX Minnesota Hub Calendar-Month LMP Swap Contract	780	LM	5,000	500			25	LM	
NYMEX Minnesota Hub Off-Peak LMP Swap Contract	780a	LJ	5,000	500			25	LJ	
NYMEX MISO Illinois Hub Calendar-Month LMP Swap Contract	778	OM	5,000	500			25	OM	
NYMEX MISO Illinois Hub Off-Peak LMP Swap Contract	778a	OJ	5,000	500			25	OJ	
Northern Illinois Hub Calendar-Month LMP Swap (PJM Interconnection, LLC) Contract	762	UM	5,000	500			25	UM	
NYMEX Northern Illinois Hub Calendar-Day LMP Swap (PJM Interconnection, LLC) Contract	763	UD	5,000	500			25	UM	
NYMEX Northern Illinois Hub Off-Peak LMP Swap (PJM Interconnection, LLC) Contract	762a	UO	5,000	500			25	UO	

NYISO Zone A LBMP Swap Contract	616	KA	10,000/10,000	1,000/1,000			25	AN	KA
NYISO Zone G LBMP Swap Contract	617	KG	10,000/10,000	1,000/1,000			25	GN	KG
NYISO Zone J LBMP Swap Contract	618	KJ	10,000/10,000	1,000/1,000			25	JN	KJ
NYMEX AEP-Dayton Hub Calendar-Month LMP Swap (PJM Interconnection, LLC) Contract	765	VM	5,000	500			25	VM	
NYMEX AEP-Dayton Hub Calendar-Day LMP Swap (PJM Interconnection, LLC) Contract	766	VD	5,000	500			25	VM	
NYMEX AEP-Dayton Hub Off-Peak LMP Swap (PJM Interconnection, LLC) Contract	765a	VP	5,000	500			25	VP	
NYMEX Cinergy Hub Calendar-Month LMP Swap Contract	774	EM	5,000	500			25	EM	
NYMEX Cinergy Hub Calendar Day Peak LMP Swap Contract	774b	CC	5,000	500			25	EM	
NYMEX Cinergy Hub Off-Peak LMP Swap Contract	774a	EJ	5,000	500			25	EJ	
NYMEX ISO New England Internal Hub Peak LMP Swap Contract	756	NI	5,000	500			25	NI	
NYMEX ISO New England Internal Hub Calendar Day Peak LMP Swap Contract	756b	CE	5,000	500			25	NI	
NYMEX ISO New England Internal Hub Off-Peak LMP Swap Contract	756a	KI	5,000	500			25	KI	
NYMEX Dow Jones Mid-Columbia Electricity Price Index Swap Contract	643	DO	5,000	500			25	DO	
NYMEX Dow Jones NP15 Electricity Price Index Swap Contract	644	DN	5,000	500			25	DN	
NYMEX Dow Jones Palo Verde Electricity Price Index Swap Contract	642	DP	5,000	500			25	DP	
NYMEX Dow Jones SP15 Electricity Price Index Swap Contract	645	DV	5,000	500			25	DV	
<b>* Please see Trading Restrictions in Rule 9.27 A(A)(4)</b>									

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### Change History

9.00 Liability of Exchange: (Amended: 10/08/2004)

9.02 Membership in the Clearing House: (Amended: 02/29/96, 10/01/86, 12/01/86, 07/17/89)

9.03 Guaranty Fund: (Amended: 07/01/87, 04/01/91, 06/01/93, 07/01/87, Rule 9.03(E): 8/12/02, 05/16/2003, 03/13/2006)

9.03A Use of the Guaranty Fund: (Adopted: 01/29/99)

9.04 Clearing Procedure: (Amended: 09/16/86, 04/20/87, 03/14/89, 06/01/90, 03/12/93, 08/16/93, 01/07/94, 03/21/94, 07/20/98, 10/08/2004)

- 9.04A NYMEX ClearPort® Clearing: Use of EFS and EFP Procedures for Trade Submission: (Amended: 01/24/03, 10/08/2004, 05/23/2005)
- 9.05 Margins: (Amended: 09/16/86, 10/10/86, 02/25/91, 04/01/92, 09/25/92, 05/19/98, 6/01/2001, 01/11/2002, 10/08/2004)
- 9.07 Limit of Clearing House Losses: (Amended: 10/08/2004)
- 9.08 Clearing House Not Liable to Customer: (Amended: 09/16/1986, 10/08/2004)
- 9.09 Clearing Fees: (Amended: 04/29/88, 09/09/91, 02/10/97)
- 9.10A Offsetting NYMEX miNY™ and Regular Futures Positions: Added 06/09/2006
- 9.11A Give-Up Trades - Trades Executed by Open Outcry: (Adopted 08/01/2001; Amended 08/04/2001)
- 9.14 Omnibus Accounts: (Amended: 09/16/1986, 07/21/1988)
- 9.15 Refund of Clearing Fees: (Amended: 10/26/1989)
- 9.16 Transaction Fees: (Amended: 10/08/2004)
- 9.17 Delivery Procedure: (Amended: 10/08/2004)
- 9.18 Delivery Through Clearing House: (Amended: 10/08/2004)
- 9.19 Final Day of Trading: (Amended: 09/16/86, 03/02/00, 04/10/03)
- 9.20 Position Limits: (Amended: 09/16/86, 11/11/86, 07/01/87, 07/24/87, 11/15/91, 06/15/2001, 05/16/2003, 03/13/2006)
- 9.21 Minimum Capital Requirements and Transfer Restrictions on Common Stock: (Amended: 01/02/87, 03/01/92, 10/27/97, 06/30/2001, 07/26/2001, 05/16/2003)
- 9.22 Financial Reporting: (Amended: 07/13/90, 05/19/98, 05/19/98)
- 9.23 Protection of Clearing House: (Amended: 09/16/1986, 07/01/1987, 03/01/1993, 11/07/1994, 8/14/2002, 05/16/2003, 10/08/2004)
- 9.24 Original Margin Depositories and Originators of Letters of Credit: (Amended: 12/12/89, 01/07/91, 03/21/91, 06/30/99, 03/07/05, 1/11/06, 11/01/06)
- 9.26 All Month/Any One Month Position Accountability: (Amended: 09/16/86, 01/16/87, 05/04/87, 08/21/87, 10/02/89, 12/08/87, 02/12/90, 02/12/90, 10/16/90, 02/28/92, 04/20/92, 06/05/92, 08/24/92, 09/03/92, 02/16/93, 09/20/93, 12/26/94, 03/29/96, 09/27/96, 08/11/97, 07/10/98, 12/01/99, 05/04/00; Retitled and Amended 06/15/2001, Amended: 07/12/2001, 09/05/2001, 04/15/2003, 06/2003, 12/24/2003, 03/04/2004, 03/19/2004, 06/07/2004, 07/26/2004, 08/19/2004, 10/01/2004, 11/01/2004, 02/04/2005, 02/10/2005, 02/11/2005, 02/18/2005, 03/07/2005, 04/12/2005, 04/25/2005, 05/18/2005, 07/28/2005, 08/24/2005, 9/21/2005, 09/29/2005, 01/11/2006, 02/21/2006, 03/10/2006, 05/03/2006 )
- 9.27 Expiration and Current Delivery Month Position Limits or Position Accountability: (Amended: 08/29/88, 02/13/89, 06/23/90, 04/24/92, 10/02/92, 09/20/93, 03/29/96, 09/27/96, 10/17/96, 08/11/97, 07/10/98, 05/04/00, Retitled and Amended 06/15/2001, Amended: 07/12/2001, 12/20/2002, 04/15/2003, 06/2003, 12/24/2003, 03/04/2004, 03/19/2004, 04/30/2004, 06/07/2004, 07/26/2004, 08/19/2004, 10/01/2004, 11/01/2004, 02/04/2005, 02/10/2005, 02/11/2005, 02/18/2005, 04/12/2005, 04/25/2005, 05/09/2005, 05/18/2005, 07/28/2005, 09/21/2005, 09/29/2005, 01/11/2006, 02/21/2006, 3/10/2006, 05/03/2006)
- 9.27A Expiration Position Accountability Levels: (Adopted 10/16/06)
- 9.28 Exemptions from Position Limits for Bona Fide Hedging Transactions: (Amended: 09/16/86, 05/04/87, 08/29/88, 11/09/89, 11/26/91, 03/25/93, 04/26/93, 07/16/93, 04/09/99, Retitled and Amended 06/15/2001)
- 9.29 Exemptions from Position Limits for Exposure from Commodity Swap Transactions: (Amended: 08/22/88, 11/29/90, 09/11/92, 03/25/94, 06/15/2001)
- 9.30 Hedge Notice: (Amended: 09/16/86, 08/29/88, 02/13/89, 06/15/2001)
- 9.31 Revised Hedge Notice: (Amended: 09/16/86, 05/04/87, 08/29/88, 02/13/89)
- 9.32 Action by the Exchange: (Amended: 09/16/86, 05/04/87, 09/29/88, 06/15/2001)
- 9.33 Position Reporting: (Amended: 09/16/86, 05/04/87, 11/02/89, 04/25/91, 06/01/92, 09/18/92, 02/28/94)
- 9.34 Reporting Levels: (Rule 9.34 Renumbered as 9.35 and amended: 09/16/86, 05/04/87, 08/21/87, 08/29/88, 10/02/89, 10/19/90, 04/20/92, 06/05/92, 09/18/92, 10/02/92, 03/15/93, 03/29/96, 07/18/96, 09/27/96, 07/10/98, 05/04/00, 06/15/2001, 07/12/2001, 04/08/2003, 06/2003, 03/19/2004, 06/07/2004, 07/26/2004, 08/19/2004, 10/01/2004, 11/01/2004, 02/10/2005, 02/11/2005, 02/18/2005, 03/07/2005, 04/12/2005, 04/25/2005, 05/18/2005, 07/28/2005, 01/11/2006, 02/21/2006, 03/10/2006, 05/03/2006)
- 9.35 Aggregation: (Rule 9.35 renumbered as 9.36 and amended: 09/16/86), (Rule 9.36 renumbered as 9.35: 05/04/87; Amended: 08/29/88)
- 9.36 Penalties: (Amended: 08/29/88, 02/13/89, 06/23/90, 09/20/93, 01/22/96)
- 9.36A Appeal / Settlement: (Adopted: 09/20/93)
- 9.37 Required Use of ATOM by Clearing Members and Floor Brokers: ((Renumbered from Rule 9.40 to 9.37 on 10/08/2004) (Adopted: 09/27/96; Reserved: 07/08/00, Rule 11.25 renumbered as Rule 9.40 06/15/2002))
- 9.37A Reserved: (formerly) Use Of Common AWS Operators by Clearing Members. (Adopted: 06/24/93; Reserved: 07/08/00)
- 9.38 Participation by NYMEX Floor Members in Special Program for Over-the-Counter Trading with FCM Guarantee: (formerly) Trade Limit Monitoring System. (Adopted: 06/24/93; Reserved: 07/08/00. Current Rule adopted 10/08/2004)
- 9.39 Special Capital Provisions for Clearing Members Guaranteeing and Clearing OTC Contracts Executed by NYMEX Floor Members: (formerly) Authorized Communications. (Adopted: 06/24/93; Reserved: 07/08/00. . Current Rule adopted 10/08/2004)
- 9.40C Clearing Requirements for Clearing of Over-the-Counter Option Transactions in Exchange-Designated Pari-mutuel Auctions: (Adopted: 10/08/2004)
- 9.41 Special Capital Provisions for Clearing Members Guaranteeing and Clearing OTC Contracts Executed by NYMEX Floor Members: (Amended: 02/04/2005)

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