

June 21, 2007

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CFTC OFFICE OF SECRETARIAT

**Via E-Mail**

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

**Re: Rule Certification. NYMEX Submission 07.76: Notification of an Amendment to Rule 9.03, Guaranty Fund.**

Dear Ms. Eileen A. Donovan:

The New York Mercantile Exchange ("NYMEX" or the "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") of a rule amendment to Rule 9.03, Guaranty Fund.

Effective on June 30, 2007, Rule 9.03 is being amended to raise the minimum contribution required of each Clearing Member from \$2 million to \$2.5 million. In conjunction with the increase, the Guaranty Fund is being increased from \$200 million to \$250 million. This increase is based on an annual analysis of the appropriate size of the Guaranty Fund based on record market volatility, the Exchange's expanding product line, and a comparative analysis with other domestic futures clearing associations. Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached rule amendment complies with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact me at (212) 299-2928, or Joseph Sanguedolce, Senior Director, Financial Surveillance, at (212) 299-2855.

Very truly yours,

Arthur McCoy  
Vice President, Financial Surveillance  
and Risk Management

cc: Thomas LaSala  
Joseph Sanguedolce  
Brian Regan

*(Additions are in Bold/Underlined.)*

### **Rule 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 \$2.5 million.

The amount deposited shall be in the form of 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.