

June 4, 2004

Via E-Mail and US Mail

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

2004 JUN -4 AM 10: 09

RECEIVED
C.F.T.C.

Re: Rule Certification. NYMEX Submission 04.77 - Notification of Amendments to NYMEX Division Rules 11.57 and 11.57A.

Dear Ms. Jean Webb:

The New York Mercantile Exchange, Inc. ("NYMEX" or the "Exchange") hereby notifies the Commodity Futures Trading Commission ("CFTC") of amendments to NYMEX Rule 11.57, Trading Standards for Electronic Trading Systems, and 11.57A, Permissible Pre-Execution Discussions.

The amendments, effective Monday, June 7, 2004, describe the guidelines to permit pre-execution discussions for trades executed on the NYMEX electronic trading systems. Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the new rule complies with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact the undersigned at 212-299-2940.

Very truly yours,

Nancy Minett
Vice President
Compliance Department

Attachment

cc: Thomas LaSala
Brian Regan

[Strikethroughs indicate deletions; Underlining indicates additions]

Exchange Rule 11.57--Trading Standards for Electronic Trading Systems

For purposes of this rule, an "Alternative Electronic Trading System" shall mean any electronic trading system other than NYMEX ACCESS on which NYMEX Division or COMEX Division products are traded, but not including GLOBEX®.

- (A) Electronic Traders and Authorized Terminal Users in the case of trading on NYMEX ACCESS® and Users and User Agents in the case of trading on an Alternative Electronic Trading System must exercise reasonable care in the entry of customer order information into the applicable Exchange electronic trading system.
- (B) An Electronic Trader or an Authorized Terminal User in the case of trading on NYMEX ACCESS® or a User or User Agent in the case of trading on an Alternative Electronic Trading System shall not withhold or withdraw from the market any customer order or any part of a customer order for his personal benefit or for the convenience of another.
- (C) An Electronic Trader or an Authorized Terminal User in the case of trading on NYMEX ACCESS® or a User or User Agent in the case of trading on an Alternative Electronic Trading System must enter all customer orders available for input into the applicable Exchange electronic trading system before entering any order for his own account, an account in which he has a proprietary interest, a discretionary account for an immediate family member, or an account in which his employer or any other employee of his employer has an interest.
- (D) An Electronic Trader or an Authorized Terminal User in the case of trading on NYMEX ACCESS® or a User or User Agent in the case of trading on an Alternative Electronic Trading System who has entered an order into the Matching System which results in him having (immediately or subsequently) the highest bid or lowest offer for a particular futures or options contract resting in the applicable Exchange electronic trading system for his personal account, any account in which he has a proprietary interest, a discretionary account for an immediate family member or an account in which his employer or other employee of his employer has an interest shall disclose the facts of the resting order to a customer prior to accepting from such customer any order for the opposite purchase or sale of the same contract.
- (E) An Electronic Trader or an Authorized Terminal User in the case of trading on NYMEX ACCESS® or a User or User Agent in the case of trading on an Alternative Electronic Trading System may not enter an order for his own account, an account in which he has a proprietary interest, a discretionary account for an immediate family member or an account in which his employer or any employee of his employer has an interest which reflects the opposite side of a customer order already resting in the applicable Exchange electronic trading system, unless the customer order has rested in the applicable Exchange electronic trading system for at least ten seconds.
- (F) An Electronic Trader or an Authorized Terminal User in the case of trading on NYMEX ACCESS® or a User or User Agent in the case of trading on an Alternative Electronic Trading System shall not make any purchase or sale, or shall not enter an order through any NYMEX electronic trading system, to effect a trade that has been

pre-arranged. The foregoing restriction shall not apply to transactions executed pursuant to permissible Pre-Execution Discussions in accordance with the provisions of Rule 11.57A below.

Exchange Rule 11.57A—Permissible Pre-Execution Discussions.

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

- (A) Customers must consent to allow pre-execution discussions with other market participants.
- (B) Electronic Traders or Authorized Terminal Users in the case of trading on NYMEX ACCESS® or Users or User Agents in the case of trading on an Alternative Electronic Trading System, who are solicited to participate in an electronic transaction through pre-execution discussions shall not (i) disclose to another Electronic Trader or an Authorized Terminal User in the case of trading on NYMEX ACCESS® or a User or User Agent in the case of trading on an Alternative Electronic Trading System the details of such discussions; or (ii) enter an order through a NYMEX electronic trading system to take advantage of information conveyed during such discussions unless the Electronic Trader or an Authorized Terminal User in the case of trading on NYMEX ACCESS® or a User or User Agent in the case of trading on an Alternative Electronic Trading System has agreed during the pre-execution discussions to participate in the transaction in accordance with this Rule and the order is entered to implement that agreement.
- (C) A period of at least 10 seconds shall elapse between entry of the two orders during which the order first entered is resting in the market.
- (D) Orders entered pursuant to this Rule must be entered in accordance with the provisions of Rule 11.57(c), if applicable.